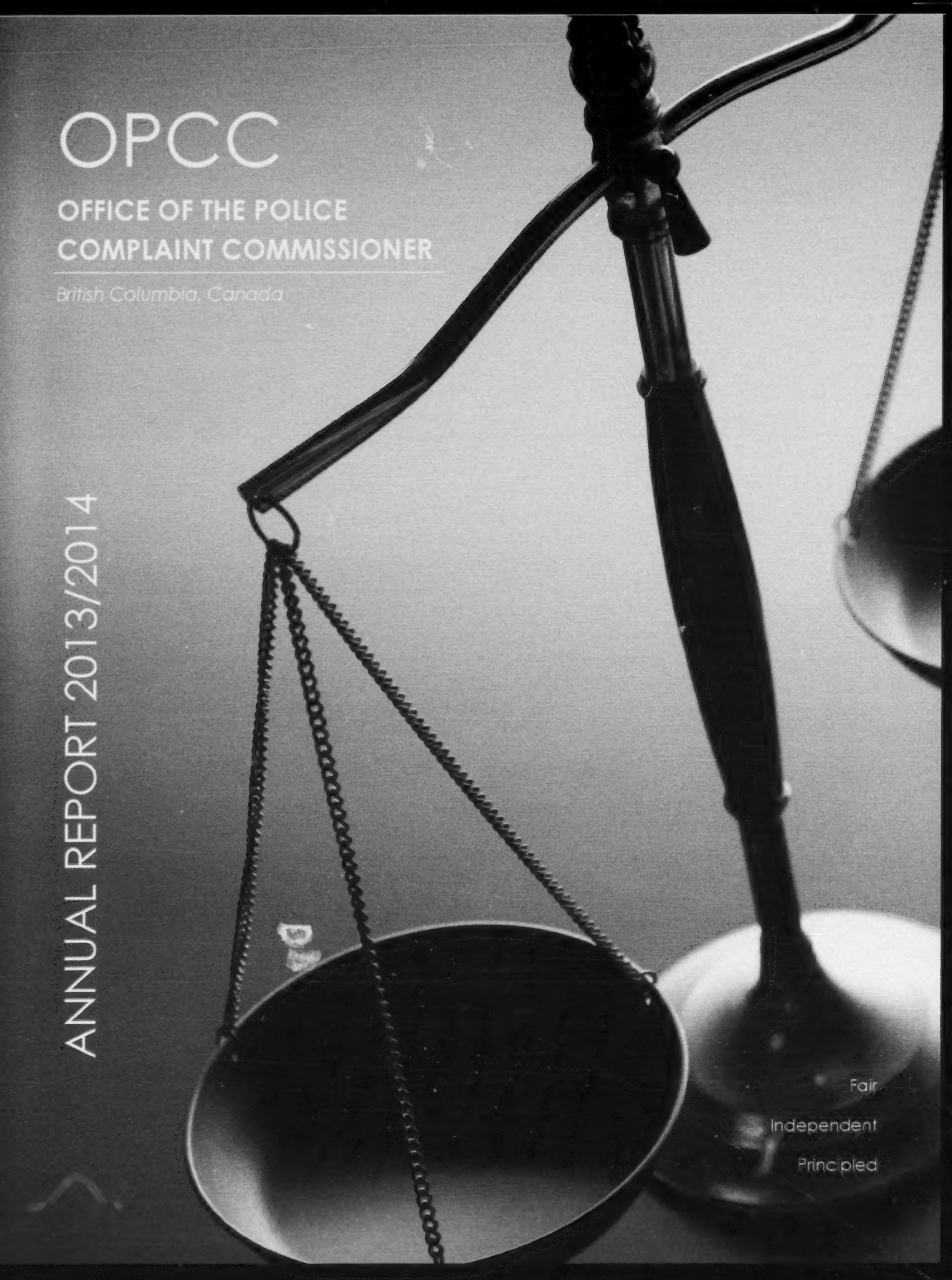

OPCC

OFFICE OF THE POLICE COMPLAINT COMMISSIONER

British Columbia, Canada

ANNUAL REPORT 2013/2014

Fair

Independent

Principled

Office of the
Police Complaint Commissioner

British Columbia, Canada

September 8, 2014

The Honourable Linda Reid
Speaker of the Legislative Assembly
Parliament Buildings, Room 207
Victoria, BC V8V 1X4

Dear Madam Speaker:

It is my honour to present to you and to the members of the Legislative Assembly the 2013/2014 Annual Report for the Office of the Police Complaint Commissioner.

This report has been prepared in accordance with section 51.1(1) of the *Police Act*, RSBC 1996, c.367.

Yours truly,

Stan T. Lowe
Police Complaint Commissioner

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Police Complaint Commissioner

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COMMISSIONER'S MESSAGE

During this past year, we have built on the success of the statutory audit undertaken by a Special Committee of the Legislature which reviewed the police complaint system and our office. The Committee endorsed the positive findings of the Auditor General's audit of the OPCC, as well as two recommendations related to a systemic delay in the investigation of complaints and improvements to the receipt and handling of complaints. Our staff has been hard at work developing policy and a formal training program to address the two recommendations of the Committee, which will be implemented this fiscal year.

Alternative Dispute Resolution (ADR) continues to be an operational priority for resolution of suitable complaints within the police complaint system. Our office continues to take a leadership role amongst civilian oversight agencies in Canada in the realm of ADR. We continue to sponsor informal resolution training and provide advice to police agencies to improve upon the use of ADR.

Informal resolutions and mediations enhance community policing by repairing the relationship between members of the community and the police, one relationship at a time. A successful resolution can have a positive impact on the participant's family, friends and the community as a whole. ADR serves as a powerful learning opportunity for all participants with lasting benefits. I am currently in the process of developing a submission to government for legislative change, which will enhance the role of ADR in the police complaint process. ADR continues to be a legacy initiative during my tenure as Commissioner.

With each passing year, stakeholders in the police complaint system have become more accustomed to the complaint process and have identified aspects of the process which could be improved. Over the course of the next year, our office will provide further submissions for legislative change to government for procedural and substantive improvement to the system.

The policing community continues to work towards improvements in professional development and education of their officers which is now having an impact from a preventative standpoint, as well a continuous improvement in the quality of investigations. Our office will continue to provide training to Professional Standards officers and expand our support to Discipline Authorities by facilitating training in an increasingly complex complaint process.

Our staff at the OPPC continues to provide excellent service in the face of challenging workloads and a growing complexity in the nature of our work. I consider myself very fortunate to be part of a team of talented and dedicated civil servants.

Stan T. Lowe
Police Complaint Commissioner

Mandate

The Office of the Police Complaint Commissioner (OPCC) is an independent office of the legislature established under Part 9 of the *Police Act* [RSBC 1996] c.367. The OPCC is mandated to ensure that complaints involving municipal police officers and departments in British Columbia are handled fairly and objectively by providing impartial civilian oversight of complaints regarding municipal police in British Columbia. It ensures thorough and competent investigations of police complaints and fair adjudication with respect to all parties and, in turn, facilitates quality policing and public trust in law enforcement and in the complaint process.

The Police Complaint Commissioner is appointed by the Legislative Assembly. The role is non-partisan, independent of government and police, and reports directly to the Legislative Assembly. The Police Complaint Commissioner's work is governed by the *Police Act*.

The Police Complaint Commissioner is responsible for overseeing and monitoring complaints, investigations and the administration of discipline and proceedings under Part 11 of the *Police Act*, and ensuring that the spirit and intent of the *Police Act* is achieved.

Our Guiding Principles

FAIRNESS

We act fairly, objectively and impartially in our oversight of the complaint process involving municipal police in British Columbia.

INDEPENDENCE

As an Independent Office of the Legislature, we serve the public, free from any improper influence or interference.

TRANSPARENCY & ACCOUNTABILITY

We provide vigilant civilian oversight to enhance transparency and accountability while ensuring a principled approach in arriving at decisions.

EXCELLENCE

We strive for excellence in our work, while maintaining the highest ethical standards.

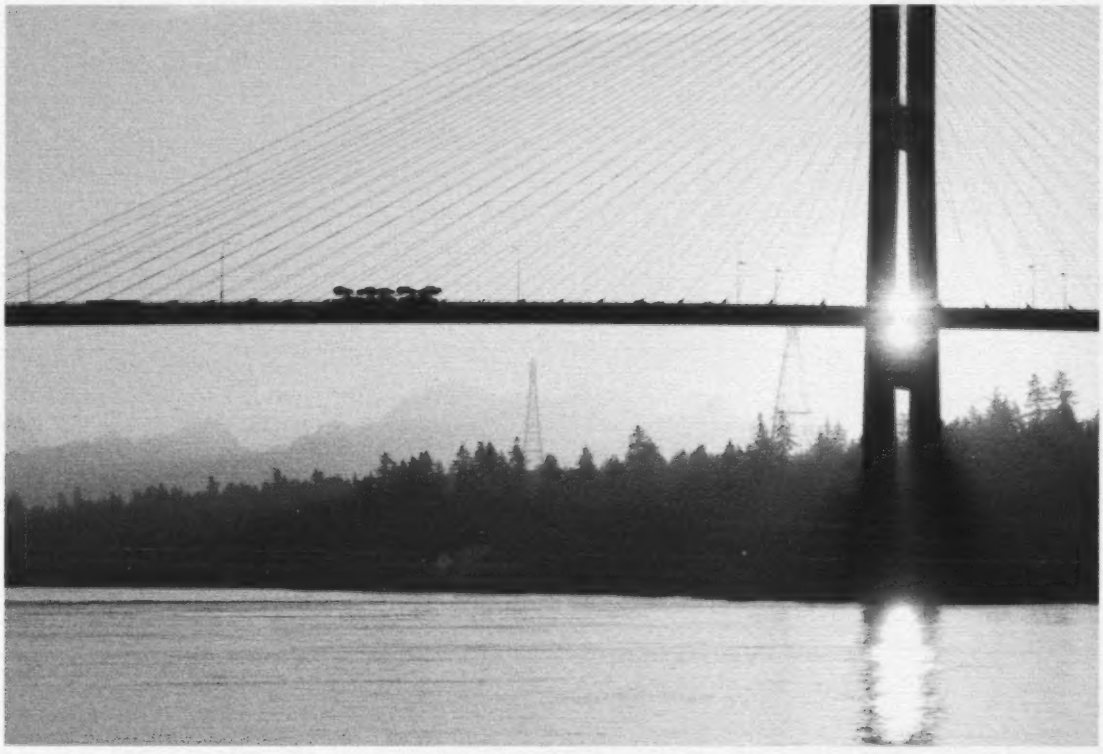
Police Act Requirements

The Police Complaint Commissioner is required by the *Police Act* to:

- Establish guidelines to be followed with respect to the receiving and handling of registered complaints as well as non-registered complaints.
- Establish forms to be used for registered complaints, members of the public who have questions or concerns, and mandatory investigations.
- Establish and maintain a record of each complaint and investigation, including all supporting documents.
- Compile statistical information regarding complaint records, including:
  - demographic information;
  - number and frequency of complaints, types or classes of complaints, and the outcome or resolution; and
  - trends in relation to police complaints.
- Report regularly to the public about complaints, complaint dispositions and the complaint process. Such reports must be published at least annually and posted on a publicly-accessible website.
- Develop and provide outreach programs and services to inform and educate the public on the police complaint process and the services provided by the OPCC, with special consideration and attention to addressing the particular informational needs of British Columbia's diverse communities.
- Establish and make available to the public a list of support groups and neutral dispute resolution service providers and agencies that may assist complainants with informally resolving or mediating their complaints when appropriate.
- Inform, advise and assist the public, complainants, police officers, discipline authorities, police boards and adjudicators with the complaint process.
- Accept and consider comments from any interested party regarding administration of the police complaint process.
- Make recommendations for the improvement of the police complaint process in the Annual Report.
- Establish procedures for mediation and guidelines for informal resolutions of public trust complaints.

The Police Complaint Commissioner may also do the following:

- Report on any matter related to the functions of the Police Complaint Commissioner.
- Engage in or commission research on any matter relating to the police complaint process.
- Make recommendations to police boards about policies or procedures on factors that gave rise to a complaint.
- Make recommendations to the Director of Police Services or the Solicitor General that a review or audit be undertaken to assist police in developing training or other programs designed to prevent the reoccurrence of problems revealed by the complaint process.
- Make recommendations to the Director of Police Services to exercise one or more of their legislatively-appointed functions in relation to a service or policy complaint.
- Make recommendations to the Solicitor General for a public inquiry under the *Public Inquiry Act* if there are reasonable grounds to believe:
    1. the issues supporting an inquiry are so serious or widespread that a public inquiry is necessary in the public interest; or
    2. an investigation conducted under Part 11 of the *Police Act*, even if followed by a Public Hearing or Review on the Record, would be too limited in scope, and powers granted under the *Public Inquiry Act* are needed.
- Consult with and advise contemporaries in other Canadian jurisdictions or with the Royal Canadian Mounted Police.



Jurisdiction

The Office of the Police Complaint Commissioner oversees the handling of complaints against the following police departments:

VANCOUVER ISLAND

- **CENTRAL SAANICH**
- **OAK BAY**
- **SAANICH**
- **VICTORIA**

MAINLAND

- **ABBOTSFORD**
- **DELTA**
- **NELSON**
- **NEW WESTMINSTER**
- **COMBINED FORCES SPECIAL ENFORCEMENT UNIT OF BRITISH COLUMBIA (MEMBERS OF THE ORGANIZED CRIME AGENCY OF BC)**
- **PORT MOODY**
- **SOUTH COAST BC TRANSPORTATION AUTHORITY POLICE SERVICE**
- **STL'ATL'IMX TRIBAL POLICE**
- **VANCOUVER**
- **WEST VANCOUVER**

The Police Complaint Commissioner does not have jurisdiction over the handling of complaints against members of the Royal Canadian Mounted Police (RCMP). The *Royal Canadian Mounted Police Act* provides a separate process for complaints regarding a member of the RCMP. Complaints received at the OPCC with respect to RCMP members are forwarded to the Commission for Public Complaints Against the RCMP.

Complaints concerning the conduct of an RCMP officer may be directed to:

The Commission for Public Complaints Against the RCMP
National Intake Office
PO Box 88689
Surrey, BC V3W 0X1
Telephone: 1-604-501-4080 or Toll-Free at 1-800-665-6878
Website: www.cpc-cpp.gc.ca

Did you know?
The OPCC is able to receive complaints in person, by post, email, fax, or phone, or via our website at www.opcc.bc.ca.

Auditor General's Report

In 2012, a statutory audit was undertaken by a Special Committee of the Legislature as required by the *Police Act*. The Committee enlisted the services of the Auditor General to conduct the audit. The results of the Auditor General's review were very positive and reflected the collective cooperation amongst many of the stakeholders in support of the 2010 amendments to the *Police Act*.

Key Findings

The Auditor General concluded that:

1. Police complaints are being addressed in compliance with the *Police Act*.
2. The Commissioner promotes thorough and competent investigations of police complaints by exercising discretion as provided by the Act.
3. The Office of the Police Complaint Commissioner has taken steps consistent with the Act to ensure increased public awareness of the police complaint process.

Recommendations

Two recommendations were endorsed by the Special Committee. Those recommendations related to a delay in investigating complaints and of insufficient formal training in the receipt and handling of complaints.

The OPCC is actively engaged in ensuring that municipal police departments are both complying with investigation deadlines, as proscribed by the *Police Act*, as well as ensuring that municipal police department staff are appropriately trained to receive and handle complaints.

A summary of the Auditor General's report is included in Appendix B.

The Civilian Component

The work of the OPCC is unique in comparison to that of other independent offices of the legislature. It provides oversight over municipal police officers, who in turn hold significant powers over citizens in the enforcement of the law created both federally and provincially.

Not only must OPCC analysts possess a comprehensive understanding of the *Police Act* and associated process, they must also possess an expertise in the professional aspects of police operations. This policing expertise includes strategic operations, policy, training and the conduct of all aspects of investigations.

Recent commissions of inquiry and review involving police incidents and oversight headed by the Honourable William H. Davies, QC, the Honourable Thomas R. Braidwood, QC, and Ontario Ombudsman André Marin, have echoed a common theme: *the importance of civilian participation in the oversight and investigation of police-involved incidents.*

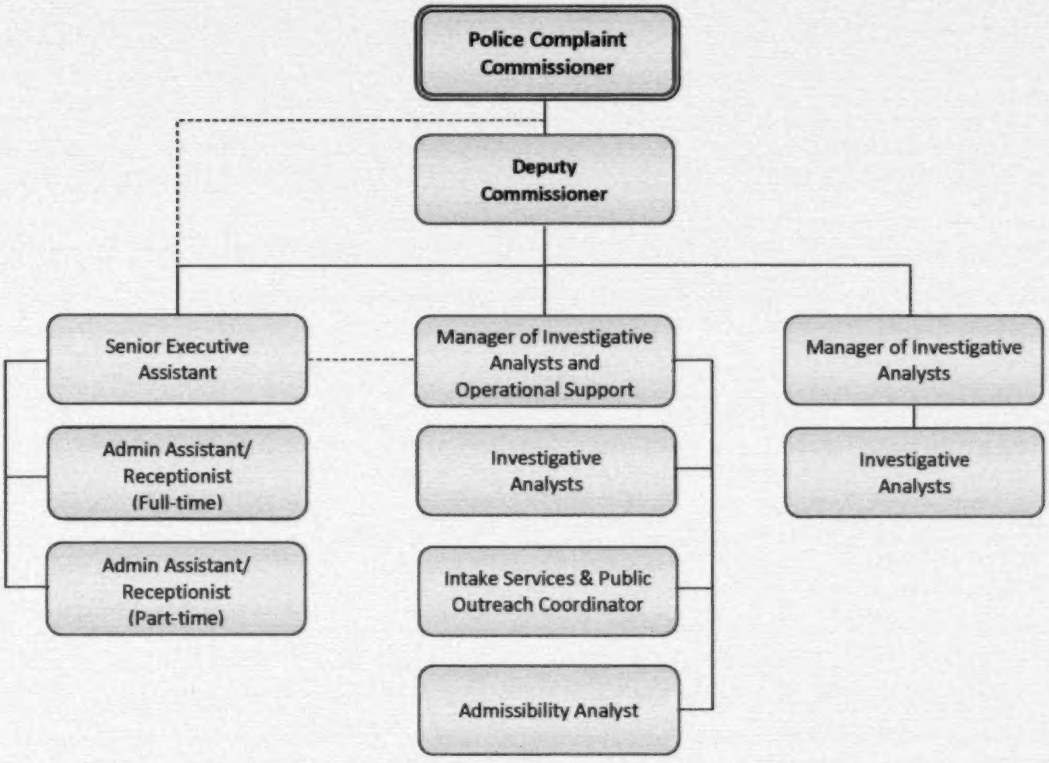
In terms of staffing, the OPCC will continue to rely upon the valuable contribution from former police officers to address its needs in terms of expertise and knowledge in the field of policing. An internal training process is in place to ensure the development of this specialized knowledge and expertise amongst OPCC civilian staff members.

The OPCC's goal is to maintain the optimal balance between promoting the civilian nature of the office and ensuring its staff have the necessary skill sets in place to maintain excellence in their oversight work.

Currently, 50% of the staff engaged in decision-making roles have backgrounds outside of policing. Many are the product of an intensive in-house training program which began several years ago.

While civilian participation in oversight is an important goal for the OPCC, the Commissioner has set, as the office's operational focus, *organizational loyalty in our performance of the OPCC's important service to the public,* regardless of our staff's collective backgrounds.

OPCC Structure



Outreach

Using Outreach to Increase Access to the Police Complaint Process

The Office of the Police Complaint Commissioner continues to build partnerships with community-based organizations whose members may need assistance in accessing our services. Building trust within the community begins at the community level. By engaging in collaborative partnerships, we are able to build pathways to the police complaint process for those who may be hesitant, or unable to directly access a police department or our office to file a complaint.

Each outreach engagement provides our office with a better understanding of the important work these organizations perform in the community and what we need to know about their members in order to serve them better.

We are most grateful to the community-based organizations that assist our office by disseminating information about the police complaint process.

An important part of the police complaint process is resolving complaints using Alternative Dispute Resolution. A complainant may have a support person to accompany them so they do not feel overwhelmed by the process, whether by age, language or any other barrier. Many community-based organizations recognize that there are those in the community who do not have a support system in place and have generously offered to assist those who fall within their mandate.

The Office of the Police Complaint Commissioner maintains a list of support groups. A complainant may contact our office for assistance in contacting the appropriate party to assist them through the process.

We would like to recognize the following agencies for their efforts on behalf of our office:

Abbotsford Community Services • Atira Women's Resource Society • Battered Women's Support Services • BC Coalition of People with Disabilities • Carnegie Community Centre • Coast Mental Health • Covenant House • Cool Aid Society • Cridge Centre for the Family • Deltassist Family and Community Services • Downtown Eastside Women's Centre • Elizabeth Fry Society • First United Church • Frank Paul Society • Fraserside Community Services Society • Jewish Family Service Agency • John Howard Society of BC • Justice For Girls • Knowledgeable Aboriginal Youth Association • Men's Trauma Centre • Métis Nation British Columbia • MOSAIC • MPA - Motivation, Power and Achievement Society • Native Courtworker and Counselling Association of BC • Our Place Society • PACE Society • Pacific Community Resources Society • PEERS Victoria • Progressive Intercultural Community Services • Salvation Army • Shiloh Housing Society • Sixth Avenue United Church • South Vancouver Neighbourhood House • S.U.C.C.E.S.S. • The Kettle Friendship Society • UBC First Nations Legal Clinic • Urban Native Youth Association • Vancouver Aboriginal Friendship Centre Society • Vancouver Rape Relief • Victoria Disability Resource Centre • Victoria Immigrant and Refugee Centre Society • WISH • Women Against Violence Against Women Rape Crisis Centre • YWCA Crabtree Corner • YWCA Legal Educator

What is a Police Act Complaint?

There are **three types** of complaints that are handled under the *Police Act*:

Public Trust complaints are about a police officer's conduct or actions that affect a citizen personally or that he or she has witnessed (Part 11, Division 3 of the *Police Act*);

Service or Policy complaints are those regarding the quality of a police department's service to the community or regarding their operating policies (Part 11, Division 5 of the *Police Act*); and

Internal Discipline complaints involve performance management issues or employer/ employee concerns that do not affect members of the public (Part 11, Division 6 of the *Police Act*).

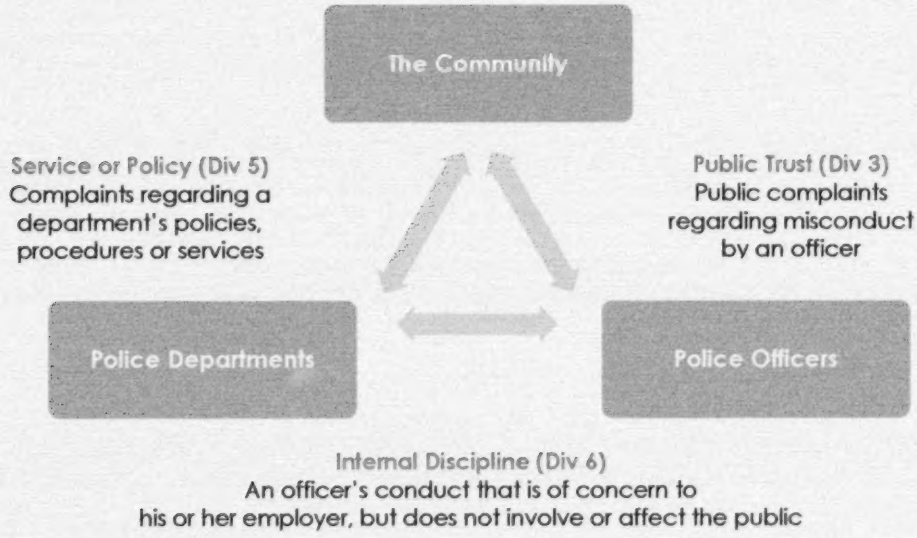
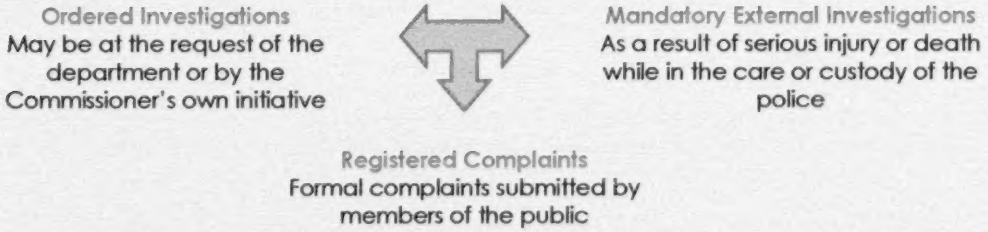

The Community
Service or Policy (Div 5)
Complaints regarding a department's policies, procedures or services
Public Trust (Div 3)
Public complaints regarding misconduct by an officer
Police Departments
Police Officers
Internal Discipline (Div 6)
An officer's conduct that is of concern to his or her employer, but does not involve or affect the public

Chart 1: Types of *Police Act* Complaints

The complaint process may be initiated by three different routes:


Ordered Investigations
May be at the request of the department or by the Commissioner's own initiative
Mandatory External Investigations
As a result of serious injury or death while in the care or custody of the police
Registered Complaints
Formal complaints submitted by members of the public

An **ordered investigation** results when information of potential professional misconduct is received, however, there is no complaint submitted by the individual involved. Between April 1, 2013, and March 31, 2014, there were 65 Ordered Investigations: 42 at the request of the department and 23 on the Commissioner's initiative as a result of information received.

The *Police Act* stipulates that all incidents that result in serious injury or death to individuals in the custody or care of the police, or as a result of operations of a department, must be reported to the OPCC and the Commissioner must order an investigation be conducted by an external agency. Between April 1, 2013, and March 31, 2014, there were 28 **mandatory external investigations** ordered.

By far, the most common method of initiating the complaint process is through complaints received from members of the public. A citizen may submit a complaint regarding an incident in which they were directly involved or witnessed. Between April 1, 2013, and March 31, 2014, there were 516 **registered complaints** received.

What is considered professional misconduct by an officer?

Division 2 of Part 11 of the *Police Act* sets out the categories of officer misconduct that, if proven, would constitute professional misconduct. The Act defines professional misconduct as follows:

> *Conduct that constitutes a public trust offence which is an offence under the Criminal Code or of any provincial enactment, a conviction in respect of which does or is likely to:*
>
> 1. *render an officer unfit to perform his or her duties as a police officer; or*
> 2. *discredit the reputation of the department with which the officer is employed.*

According to section 77(1)(b) of the Act, any conduct that is considered harassment, coercion or intimidation of anyone making a complaint, or hindering, delaying, obstructing or interfering with a *Police Act* investigation, is conduct that constitutes misconduct.

Any of the conduct set out below constitutes a disciplinary breach of public trust. The *Police Act* provides a full description of each offence.

Abuse of Authority
Accessory to Misconduct
Corrupt Practice
Damage to Police Property
Damage to Property of Others
Deceit
Discourtesy
Discreditable Conduct
Improper Disclosure of Information
Improper Off-Duty Conduct
Improper Use or Care of Firearm
Misuse of Intoxicants
Neglect of Duty

Did you know?
The Office of the Police Complaint Commissioner serves all British Columbians. Translation services can be made available to complainants.

Admissibility Reviews

Since the revisions to the *Police Act* in 2010, all registered complaints received must first be reviewed by the OPCC to determine whether they are admissible under Division 3 (Public Trust) of the *Police Act*.

In order for a complaint to be deemed admissible, it must:

1. Contain an allegation of conduct that, if substantiated, would constitute misconduct as defined by the *Police Act*;
2. Be filed within one year of the occurrence; and
3. Not be frivolous or vexatious.

Once a complaint has been deemed admissible, it is forwarded to the Professional Standards Section of the originating police department for investigation.

The Police Records Information Management Environment, known in BC as ***PRIME-BC****, is the information system used by all police forces in the province.*

Alternative Dispute Resolution

Alternative Dispute Resolution (ADR) has been identified as a legacy initiative by the Commissioner. Resolving suitable complaints through communication, understanding and reconciliation results in a more meaningful resolution for the participants. ADR allows for repair and improvement of public confidence in police, one relationship at a time.

Depending on the particular circumstances, it may be determined that a complaint is suitable for informal resolution. A complaint can only be informally resolved if both the officer and the complainant agree to engage in the process and, ultimately, agree to the proposed resolution in writing.

A complaint may also be suitable for resolution through the assistance of a professional mediator. Before a file can proceed to mediation, the Commissioner must first approve it to ensure the circumstances are appropriate for mediation. Mediations are completely confidential and agreements reached are final and binding once confirmed by the Police Complaint Commissioner.

Our experience has shown that there are a large number of complaints which are better suited to informal resolution or mediation, as opposed to undergoing an extensive investigation and having a third party deliver a decision. By directly participating in generating understanding and finding solutions to a conflict, the majority of complainants and officers come away from the process confirming that the experience resulted in a meaningful level of satisfaction. A successful informal resolution provides the opportunity to gain greater understanding of the situation which gave rise to the complaint; both parties achieve broader perspective, and thereby a certain degree of learning and relationship-building can be obtained. The new *Police Act* has enhanced provisions for informally resolving or mediating complaints and the OPCC has encouraged complainants and police to take full advantage of these options, while ensuring the public interest is met.

Following every complaint that is resolved informally, in addition to reviewing the agreement reached and ensuring it meets the public interest and is appropriate for the circumstances, the OPCC Dispute Resolution Coordinator contacts the complainant to ensure he or she is satisfied with the process. The responses from complainants have been overwhelmingly positive. The OPCC is currently developing a formal participant survey to better quantify the level of satisfaction with the process.

In partnership with certified mediators, the OPCC has developed a conflict resolution training syllabus specifically designed for Professional Standards investigators and frontline officers. These training sessions are structured on a cost-recovery basis and as of the date of this report, we have facilitated six sessions, all of which were well attended. The participant feedback has been overwhelmingly positive and we will continue to revise and improve the course content as necessary to meet the specific demands of resolving police complaints.

With the support and assistance of the Delta Police Department and the Vancouver Police Department's Training Section, the OPCC has produced a training video to explain the process and benefits of informal resolution and mediation. This video is currently being

distributed to all municipal departments for use as a training aid, in addition to being incorporated into the OPCC conflict resolution training sessions.

The OPCC will continue to promote and encourage the use of ADR by assisting Professional Standards investigators wherever possible and providing guidance to complainants through the process.

The number of successful informally-resolved police misconduct allegations has increased over 57% since the implementation of the new legislation in April 2010. During fiscal year 2013/2014, 25% of all allegations concluded were informally resolved. It is projected that with continued alternative dispute resolution promotion and training by our office, this number will continue to increase. Our goal is to lead the country in the alternative dispute resolution of police complaints and ultimately resolve 50% of all allegations of misconduct by this method.

Discontinuations

Police Act investigations may be discontinued if, after further information is obtained, it is established that:

1. Further investigation is neither necessary nor reasonably practicable;
2. The complaint is frivolous or vexatious; or
3. The complaint was made knowing it was false or misleading.

Corrective and Disciplinary Measures

The *Police Act* also sets out the range of corrective and/or disciplinary measures to be imposed if the misconduct has been proven against the officer. The measures must include one or more of the following:

- Advice as to future conduct
- Verbal reprimand
- Written reprimand
- Participate in program/activity
- Undertake counselling or treatment
- Undertake training or re-training
- Work under close supervision
- Transfer/reassignment
- Suspension without pay (up to 30 days)
- Reduction in rank
- Dismissal

All adjudicative decisions are available on the OPCC website at www.opcc.bc.ca.

investigations

Investigations into allegations are conducted by a Professional Standards Investigator within the police department. Investigations into complaints are to be completed within six months and both the complainant and subject officer receive regular progress reports on the investigation. An OPCC investigative analyst is assigned to the file and contemporaneously monitors the investigation to ensure it is conducted professionally and addresses the concerns raised.

Once the investigation is complete, the investigator submits a *Final Investigation Report* to the Discipline Authority of the police department for a decision. A Discipline Authority is the Chief Constable of the department, or a senior officer designated by the Chief Constable. Within 10 business days of receipt of the report, the Discipline Authority must provide his or her decision to the complainant, the subject officer and to the OPCC. The decision must set out whether the evidence appears to substantiate the allegation of misconduct and if so, advise as to the range of proposed discipline or corrective measures. A prehearing conference may be held, allowing the officer the opportunity to admit the misconduct and accept the proposed discipline or corrective measures. If no agreement is reached or a prehearing conference is not held, the matter then proceeds to a discipline proceeding before the Discipline Authority.

The complainant may request a review of the file if they disagree with the Discipline Authority's decision not to substantiate an allegation or if they disagree with the results of a discipline proceeding. An officer may also request a review if he or she disagrees with the outcome of a discipline proceeding. Also, if the penalty imposed is dismissal or a reduction in rank, the officer is entitled to a Public Hearing or, if the Commissioner deems it more appropriate, a Review on the Record.

The OPCC reviews all investigations and decisions to ensure the integrity of the process and to confirm that decisions are impartial and fair. If the Commissioner disagrees with a decision, he has three avenues of adjudicative review to choose from, depending on the unique circumstances of the matter. The Commissioner may:

appoint a new Discipline Authority (s.117)

Appoint a retired judge to review the Final Investigation Report and arrive at a decision as to whether the allegation appears to be substantiated by the evidence. If the finding is that the allegation appears to be substantiated, the retired judge then becomes the Discipline Authority for the matter. If the retired judge's finding is that the allegation is not substantiated, the matter is final and conclusive.

arrange a Review on the Record (s.141)

Arrange for a Review on the Record following a discipline proceeding. A retired judge is appointed to conduct a "paper review" of the entire matter and deliver a decision and, if substantiated, the corrective and/or disciplinary measures to be imposed. A retired judge's decision following a Review on the Record is final and conclusive and is not open to question or review in any court. [s 154(2)]

order a Public Hearing (s.143)

Arrange for a Public Hearing following a discipline proceeding. A retired judge is appointed to sit as the adjudicator and review the evidence, hear sworn testimony and arrive at a decision. These hearings are open to the public and an adjudicator's decision is final and conclusive and may only be appealed on an issue of law.

Recommendations for Improvement

Pursuant to section 177(2)(l) of the *Police Act*, the Police Complaint Commissioner must make any recommendations for improvement of the complaint process in the Annual Report.

The OPCC continues to work in consultation with government regarding legislative amendments to the Act to improve the process. The most notable recommendations are as follows:

- Clearly establishing in the legislation the Commissioner's plenary power to arrange a Public Hearing.
- Revisions to the s.117 review process to avoid the bifurcation of proceedings in cases where there are multiple allegations.
- Affording a Discipline Authority the discretion to call material witnesses to testify in a discipline proceeding, with a commensurate expansion of the role of a Discipline Representative.
- Increasing the Commissioner's powers in terms of promoting and expanding the use of alternative dispute resolution to resolve appropriate complaints.
- Improving the Act in terms of establishing time limits in the complaint process.
- Revising the role of Public Hearing counsel to avoid redundancy and hearing costs.

The OPCC is currently working on further revisions for government's consideration to improve the efficiency and effectiveness of the police complaint system.

SAMPLE COMPLAINT SUMMARIES

The following complaint summaries are intended to provide samples of the variety of complaints which were concluded between April 1, 2013, and March 31, 2014. All substantiated complaints resulting in corrective or disciplinary measures are recorded on the officer's *Service Record of Discipline*.

Registered Complaint - Inadmissible

OPCC 2014-9371

The complainant was the subject of a traffic stop wherein she was issued a warning ticket for "using a mobile device while operating a motor vehicle". The complainant advised the officer that her cell phone was in her purse, in the back seat of her vehicle. The complainant further advised the officer that when she passed his vehicle she had been applying cream to her face and was holding the bottle in her hand.

The complainant believed that, based on the information she provided to the officer, the officer should have apologized for the stop, rather than issue her a warning ticket and so filed a *Police Act* complaint on-line.

Police officers in British Columbia have broad discretion in relation to the issuing of *Motor Vehicle Act* violation tickets. In this case, the officer decided to issue a warning ticket. This would suggest a proper exercise of the officer's discretion.

Even if the complainant had been issued a violation ticket, traffic court is the process available to dispute a violation ticket. This is the appropriate forum in which to raise concerns regarding the fairness and validity of a ticket. It would then be up to the presiding Judge or Justice to arrive at a final determination.

Based on the information provided by the complainant, the conduct of the officer, if substantiated, would not constitute misconduct as defined by the *Police Act*. This file was deemed inadmissible and closed as there was no misconduct alleged.

Registered Complaint - Discontinued

OPCC 2013-8868

The complainant reported that when he was arrested, his backpack was placed in the trunk of the police vehicle. However, when he was released, his backpack was not returned to him. The police department assisted the complainant with filing a complaint.

Based on the allegation contained in the complaint, the OPCC determined the complaint to be admissible under Division 3, with the potential misconduct identified as *Neglect of Duty*, in relation to the allegation that the officer failed to account for property received, and forwarded it to the department for investigation.

Following a preliminary investigation, the OPCC received a request from the Professional Standards investigator to discontinue the investigation on the basis that while there was no evidence to corroborate the complainant's allegation, there was evidence to contradict the complainant's allegation.

The OPCC conducted a review of the request and all associated materials. The review included, but was not limited to, a review of video footage of the police vehicle pulling into the police department's parking lot. The video showed the officer opening the police vehicle's trunk and removing only a pair of protective gloves before shutting the trunk. Further, notes made by the officer at the time of arrest indicated the complainant had advised the officer that he had left his backpack at a library. Additionally, upon intake to the jail, the complainant was provided an itemized list of the belongings turned in for his signature. The list did not include reference to a backpack.

The OPCC also considered that subsequent to filing the complaint, the complainant left Canada and did not provide the Professional Standards investigator with a way to contact him for any follow-up or interview.

Based on the OPCC's review of the investigation, it was determined that the evidence supported the Professional Standards investigator's request and issued a *Notice of Discontinuation*.

Registered Complaint - Substantiated

OPCC 2011-6937

A Chief Constable became aware of serious allegations of potential misconduct by one of his department's officers. The Chief Constable met with the complainant and assisted her in completing a complaint form. The complaint was submitted to the OPCC and it was deemed to be admissible.

The Chief Constable submitted a request to the OPCC that the matter be investigated by an external investigator.

Following the external investigation, the Chief Constable, in his capacity as the Discipline Authority, determined that the evidence appeared to substantiate two counts of Discreditable Conduct, and one count of Deceit, and offered the involved officer a prehearing conference.

The complainant exercised her right to make written submissions in relation to the complaint, the adequacy of the investigation, and the discipline or corrective measures that would be appropriate.

At the prehearing conference, the officer accepted the following discipline and/or corrective measures:

Count 1: That between March and October 2011, the officer was involved in an inappropriate relationship with the female complainant, while assigned as the primary investigator of a police file in which the female was the complainant. (Discreditable Conduct)

Discipline/Corrective Measures accepted:

- a 12-day suspension from duty without pay;
- successful completion of a police training course in communication.

Count 2: That between March and October 2011, the officer spent large periods of time at the female complainant's residence while on duty for a purpose unrelated to his duties as a police officer. (Discreditable Conduct)

Discipline/Corrective Measures accepted:

- a 4-day suspension from duty without pay to be served consecutively to the suspension arising from Count 1;
- a requirement to work under close supervision for one year;
- successful completion of a police training course in Police Ethics and Accountability.

Count 3: That on October 21, 2011, the officer knowingly made a misleading or false oral statement to his supervisor, regarding the nature and extent of the relationship with the female complainant. (Deceit)

Discipline/Corrective Measures accepted:

- a 10-day suspension from duty without pay to be served consecutively to the suspensions arising from Counts 1 and 2.

In reviewing the investigation, and considering all the relevant factors in this case, the OPCC determined that the Discipline Authority's decision to substantiate the allegations and the disciplinary measures imposed at the prehearing conference were both correct and appropriate with respect to the circumstances.

Therefore, the agreement reached at the prehearing conference was approved and the resolution was final and binding. The OPCC file was closed.

It should be noted that as a result of this file, the department began developing a policy regarding the creating of a formalized peer support program, incorporating provisions for timely critical incident debriefings into department policy, and adopting practice whereby officers of the detective section would monitor all active domestic violence files to offer a level of support and oversight in addition to the initial investigation carried out by the first responder from the patrol section.

Registered Complaint – Not Substantiated

OPCC 2012-7974

The complainant reported that police abused their authority when they responded to an abandoned 911 call by unlawfully entering his residence, arresting him, and using unnecessary force.

Based on the allegations contained in the complaint, the OPCC determined the complaint to be admissible under Division 3, with the potential misconduct identified as *Abuse of Authority*, and forwarded it to the department for investigation.

Based on the *Final Investigation Report*, the Discipline Authority determined the complaint to be unsubstantiated. The Discipline Authority stated that the duty of police in responding to abandoned 911 calls is clear: they must ensure that any occupant of the residence from which such a call originates is safe. As police have a common law duty to protect life, they have the authority to enter and search without warrant a place from which a 911 call originates for the purpose of ensuring that any occupant is safe. Anyone who resists or obstructs a police officer in fulfilling this duty is committing an offence.

The complainant's attempt to close an external door showed intent to prevent police from entering his residence, limit police capacity to make observations inside the residence and limit police capacity to communicate with any occupant inside the residence. In the Discipline Authority's view, this action amounted to resisting or obstructing police in the lawful execution of their duty.

The Discipline Authority noted that while there was some discrepancy in the statements relative to the use of force by police, they were generally consistent. All of the statements described the door being forced in by police and police using force for the purpose of handcuffing. When considering the entire situation, the evidence led the Discipline Authority to conclude that the force used was for the purpose of handcuffing the complainant, and was reasonable.

The complainant was provided with a copy of the *Final Investigation Report* and the Discipline Authority's decision and advised that if he was not satisfied with the decision he could file a written request with the Police Complaint Commissioner for the appointment of a retired judge to review the file. The OPCC did not receive a request from the complainant, however, it is the policy of the OPCC to review the disposition of all *Police Act* complaints in order to ensure the integrity of the complaint process.

The OPCC's review of the *Final Investigation Report* determined it to be a complete and thorough investigation. The investigation included, but was not limited to, interviews of the complainant, his adult son, and both respondent police officers. Also included were: the officers' notes; the police report to Crown Counsel; photos from the scene; the detailed 911 call report; the computer-aided dispatch of the call; the mobile data terminal messages; the radio transmissions; and the Crown Counsel memorandum regarding the decision to stay charges after they had previously been approved.

The OPCC determined that the Discipline Authority's decision that the allegations were not substantiated was appropriate in the circumstances.

As referenced in the *Final Investigation Report*, Canadian law, with respect to police response and attendance at abandoned 911 calls, is quite clear and unambiguous. (See *R. v. Godoy, [1999] 1 SCR 311.*) During a 911 investigation, when someone attempts to close a door, this further contributes to the appropriateness of a police response with a forced entry.

In relation to the complainant's arrest, Crown Counsel approved the charge of obstructing a peace officer, and the matter was scheduled for trial. Crown Counsel subsequently released a memorandum concluding that it was no longer in the public interest to pursue the matter and noted that the officers' actions were "reasonable in the circumstances, but that a prosecution was not necessary."

In relation to the allegation of excessive force, the complainant's son was interviewed and stated that the force used by the police against his father was not excessive in the circumstances.

The OPCC determined that there was not a basis to appoint a retired judge to review this matter, and issued a *Conclusion of Proceedings*.

Registered Complaint - Substantiated

OPCC 2011-6835

Pursuant to section 89 of the *Police Act*, this matter was originally forwarded to the OPCC as a Reportable Injury Notification. The circumstances reported were that a male was subject to arrest and was taken into custody with the assistance of a police service dog. The male sustained puncture wounds to his upper back/shoulder area and his neck as a result of contact made by the dog.

Subsequent to the department's notification, the male involved filed a registered complaint with this office.

The complainant reported that the police dog handler kicked him in the face and deployed his dog without reason. He further reported that he was not provided with his Charter rights and that the two involved officers refused to provide him with their pin numbers.

Based on the allegations contained in the complaint, the OPCC determined the complaint to be admissible under Division 3, with the potential misconduct identified as *Abuse of Authority* in relation to the allegation of excessive force, *Neglect of Duty* in relation to the allegation that the complainant was not provided his Charter rights, and *Discreditable Conduct* in relation to the allegation that the officers refused to provide the complainant with their pin numbers. The OPCC forwarded it to the department for investigation.

A *Final Investigation Report* was submitted and, based on the report's contents, the Discipline Authority determined that there was clear evidence that the complainant was advised of his Charter rights and was provided with officers' names and badge numbers. As such, these allegations were determined to be unsubstantiated.

However, the Discipline Authority concluded that while the officer was in the lawful execution of his duties when he confronted the complainant, and had reasonable grounds to believe that he had committed a criminal offence, his decision to use his dog to apprehend the complainant was, at least from an objective perspective, excessive and therefore not justified under the circumstances.

The complainant was provided with a copy of the *Final Investigation Report* and the Discipline Authority's decision and advised that if he was not satisfied with the decision he could file a written request with the Police Complaint Commissioner for the appointment of a retired judge to review the file. The OPCC did not receive a request from the complainant, however, it is the policy of the OPCC to review the disposition of all *Police Act* complaints in order to ensure the integrity of the complaint process.

Based on a review of the available evidence, the OPCC was satisfied that the Discipline Authority appropriately determined that the allegations of Neglect of Duty and Discreditable Conduct had not been substantiated. Therefore, there was not a basis to appoint a retired judge to review the unsubstantiated allegations in this matter.

The complainant initially indicated that during the arrest he was kicked by the officer but later stated during his audio/video interview that he did not believe that the officer intentionally kicked him and it might have been because his foot slipped while controlling his police dog.

With respect to the substantiated allegation of Abuse of Authority, a prehearing conference was offered to the officer and an agreement was reached whereby the officer accepted responsibility for his conduct and agreed to a verbal reprimand as the disciplinary/corrective measure.

Following the prehearing conference, a report was forwarded to this office for review.

In reviewing the investigation, and considering all the relevant factors in this case, it was the OPCC's view that the disciplinary measure imposed at the prehearing conference was both correct and appropriate with respect to the circumstances.

When arriving at this decision, the OPCC took into consideration that the complainant's primary wound at the time was described by paramedics on the Patient Care Report as a "surface" one-inch laceration on the back of the neck that was sutured. The complainant also had minor abrasions on his back. There was no evidence that any of his physical injuries were medically significant, had a lasting impact, or resulted in any impairment.

Therefore, the agreement reached at the prehearing conference was approved and the resolution was final and binding.

The OPCC issued a *Conclusion of Proceedings* and closed the file.

Service or Policy

OPCC 2013-9056

The complainant was the subject of two mental health apprehensions: the first in 2009 and the second in 2012.

In 2012, the complainant received a clear criminal record check. In 2013, a criminal record check identified these two mental health apprehensions as offences, yet no charges were laid, nor were there any court proceedings in relation to either incident.

The complainant believed that the department had arbitrarily changed its policy in relation to releasing this type of information without advising the public.

The complainant requested the department remove any reference to an apprehension under the *Mental Health Act* from the complainant's Police Information Check as it was affecting her opportunities in education, employment, and volunteer positions.

The OPCC determined this complaint to be a Service or Policy complaint and forwarded to the department's Police Board for processing in accordance with Division 5 of the *Police Act*. The Police Board reviewed the policy complaint and directed the Chief Constable to investigate the matter and submit a report for the Board's consideration.

Upon receiving the Chief Constable's report, the Board requested further information to clarify certain aspects of the department's policies and procedures.

The two reports provided the following information regarding the department's practice around police record/information checks:

- The complainant had received a clear criminal record check in 2012, however, the Board informed the complainant, at the time of the 2012 request, one incident which met the release criteria was missed by civilian staff.
- In releasing mental health information pursuant to a police record/information check, the department followed the same standardized guidelines as all other BC municipal police agencies and most BC RCMP detachments.
- A record check is only conducted at the request, and written consent, of the requestor. The results are mailed to the requestor, never to the employer or volunteer agency. It is up to the requestor to determine whether to share the results with a prospective employer or volunteer organization. The department does not make any determination of suitability for employment or volunteer status.

Based on the information in these reports and pursuant to section 172(2) of the *Police Act*, the Board dismissed the complaint.

Although the Board dismissed the complaint, there were some positive changes as a result of the complainant's comment that the mental health information released should not be described as an "offence". The department's form was to be modified to replace 'offence' with 'incident type'. The Board also requested that information relating to the record check process be updated on the department's website to provide more

detail to the public about what information could be released and the reconsideration process for citizens who wish to have their file reviewed.

Further, the Board was advised that the Information and Privacy Commissioner was planning a review of the police record/ information check process. The department would consider any recommendations emanating from that review.

The complainant was advised of her right to request a review of the matter by the OPCC if she disagreed with the Board's decision. The complainant did not exercise this right.

The OPCC examined the Board's decision, and was satisfied with the outcome and did not make any recommendations for further investigation, study, courses of action or changes to service or policy respecting this particular matter. The file was closed.

Service or Policy

OPCC 2012-8171

The complainant reported that someone broke into the parking garage near his place of employment and smashed car windows and ransacked cars. The complainant stated that there were over 20 vehicles affected and tens of thousands of dollars in damage. When the complainant contacted the police in relation to the incident, he was told "to file individual reports, but no officer would be dispatched as it was the department's policy to not investigate car thefts anymore." The complainant considered it completely unacceptable that no investigative steps were to be taken.

The OPCC determined this to be a service or policy complaint and forwarded it to the department's Police Board for processing in accordance with Division 5 of the *Police Act*.

The Police Board reviewed the policy complaint and directed the Chief Constable to investigate the matter and submit a report for the Board's consideration.

After reviewing the report, the Chair of the Service and Policy Complaint Review Committee noted: "This complaint is substantiated and will ultimately result in changes to policies and procedures, primarily at the E-Comm 911 centre. The result will be better response to situations where multiple vehicles are broken into at the same location and in a similar time period".

The complainant was advised of his right to request a review of the matter by the OPCC if he disagreed with the Board's decision. The complainant did not exercise this right.

The OPCC examined the Board's decision, and was satisfied with the outcome and would not make any recommendations for further investigation, study, courses of action or changes to service or policy respecting this particular matter. The file was closed.

Reportable Injury/Mandatory External Investigation

OPCC 2013-8871

Pursuant to section 89 of the *Police Act*, this matter was reported to the OPCC as a Reportable Injury Notification. The circumstances reported were that as a result of an on-scene investigation, a police officer took a female driver into custody for impaired driving and breach of two driving prohibitions.

The female was handcuffed and placed in the rear of a police vehicle for transport. While en route to the police station, the female rolled off the seat and onto the floorboard, hitting her head on a floor bolt securing the rear seat form to the interior of the vehicle. The female sustained a cut to her face that required 16 staples to repair.

The Police Complaint Commissioner was satisfied that the injury sustained by the female driver met the definition of "serious harm" under section 89 of the *Police Act* and issued a Notice of Mandatory External Investigation.

The External Investigator appointed to conduct the investigation submitted a *Final Investigation Report* to the Discipline Authority for decision. After review, the Discipline Authority found no evidence to support any contravention of the *Police Act* by the officer.

The OPCC's review of the *Final Investigation Report* determined it to be a complete and thorough investigation. The investigation included, but was not limited to: a review of the Independent Investigation Office's (IIO) investigation; all PRIME-BC files; police statements; police notes; department policy regarding the transportation of prisoners; the *Motor Vehicle Act* and Regulations; in-car video footage; and an interview of the involved officer.

The in-car video system captured the event as it unfolded, recording the police vehicle's speed and front view of the vehicle in motion as well as back view of the prisoner compartment. The video footage clearly showed that the injury to the female driver occurred after she rolled off the back seat of a police vehicle and onto the floor, where she hit her forehead on a protruding floor bolt. The officer immediately pulled over to the side of the road, removed the handcuffs, and provided medical attention. The IIO also viewed and analyzed the in-car video system and concluded in their investigation that there was no evidence to support that the involved officer "drove in any way other than in a safe manner".

As the External Investigator stated in the *Final Investigation Report*, the officer's decision to not seat belt the female prisoner was in compliance with department policy, in accordance with the training he received from the Justice Institute of British Columbia and was in compliance with section 32.04 of the *Motor Vehicle Act and Regulations*, which outlines the exemptions for police officers and any person who is in the custody or care of a police officer from the requirement to wear a seat belt while being transported in an emergency vehicle.

The OPCC determined that there was not a basis to appoint a retired judge to review this matter and issued a *Conclusion of Proceedings*.

Of note, since this incident, the involved police department has removed or placed protectors on any protruding bolts or other parts located in the prisoner compartment of police vehicles.

Reportable Injury/PCC Ordered Investigation

OPCC 2013-8561

Pursuant to section 89 of the *Police Act*, this matter was reported to the OPCC as a Reportable Injury Notification. The circumstances reported were that a police dog master, accompanied by his police service dog, responded to a report of a break-and-enter and possible attempted theft of a motor vehicle.

Upon arrival, the police dog master deployed his police service dog in the immediate area of the vehicle where the suspect had last been observed. Another officer assisted by running with the police dog master to ensure his safety. The suspect was tracked to a bushed area. The dog master could hear a male's voice saying, "Okay, okay, I'm right here". The police dog master was unable to visually locate the male suspect due to the time of night and the fact that they were in heavily bushed terrain. Not knowing where the male was located, whether he had a weapon of opportunity on him, and due to the fact that the officer was hung up on a bramble bush and was temporarily stuck, the police dog master made the decision to let go of the dog line and send his police service dog to apprehend the suspect. The suspect sustained minor puncture wounds to his left calf and his right elbow as a result of the police service dog making contact. The suspect was transported to hospital where he received one staple to close a wound on his left calf.

After reviewing the information provided by police, the Police Complaint Commissioner determined that the suspect's injuries did not constitute serious harm as defined by the *Police Act* and therefore a mandatory external investigation was not necessary. However, it was not clear to the Police Complaint Commissioner whether the police dog master provided the suspect with sufficient opportunity to surrender prior to releasing his police service dog. Therefore, the Commissioner ordered an investigation into the matter.

During the *Police Act* investigation, the OPCC interviewed the suspect who alleged that

when he called out to police that he would surrender, an unidentified officer said, "You're surrendered when the dog says you're surrendered". Consequently, the Police Complaint Commissioner issued an *Amended Order for Investigation*, to include this new allegation.

After reviewing the *Final Investigation Report*, the Discipline Authority determined that the evidence did not support the allegation that a police officer told the suspect, "You're surrendered when the dog says you're surrendered", and so issued a finding of unsubstantiated.

The OPCC determined that the investigation was sufficiently thorough and addressed the public trust issues contained in the *Order for Investigation*. As part of the investigation, the investigator interviewed both police officers and the complainant.

The police dog handler advised the investigator that he did not make the alleged comment and he was under the impression that the reason for the investigation was because he made no verbal communication with the suspect prior to releasing the police service dog. The second officer advised that he did not make the comment nor did he hear the alleged comment.

The complainant advised that he had been smoking drugs and everything he recalled from the night of the incident was "stretched out and exaggerated". There were no independent witnesses.

The OPCC determined that, based on all of the available evidence, there was a degree of uncertainty that a police officer made the alleged comment.

As there did not exist clear, convincing and cogent evidence that established, on a balance of probabilities, that the Discipline Authority's decision was wrong, there was not a basis to appoint a retired judge to review this determination.

With respect to the allegation that the police dog handler abused his authority by releasing his police service dog prior to issuing a challenge to the suspect, the Disciplinary Authority substantiated this allegation.

The Discipline Authority articulated that in speaking with experienced dog handlers, there are many cases when a suspect will say they are giving up as a ploy to create an opportunity to escape or even attack the officer. However, although that possibility existed, there was no basis for believing that was occurring here. The RCMP training for this circumstance is clear: Unless there are extenuating circumstances, the dog handler is to obtain a visual on the subject, announce his or her presence and intention, and provide the suspect with the opportunity to give up.

The Discipline Authority determined that, given how important this decision is for a dog master, the decision to release the dog contrary to his training amounted to an abuse of authority. The officer was offered a prehearing conference. An agreement was reached whereby the officer accepted responsibility for his conduct and agreed to a Written Reprimand as the disciplinary/corrective measure. A report following the prehearing conference was forwarded to the OPCC for review.

In reviewing the investigation and considering all the relevant factors in this case, it was the OPCC's view that the disciplinary measure imposed at the prehearing conference was both correct and appropriate with respect to the circumstances. Therefore, the agreement reached at the prehearing conference was approved and the resolution was final and binding.

PCC Ordered Investigation

OPCC 2013-8997

A police department reported to the OPCC that an officer accidently discharged one round from his service pistol in the police department's secure firearms room. The bullet went through a metal locker door and lodged in an empty rifle case inside the locker. The involved officer reported the incident to the Watch Commander.

The Police Complaint Commissioner determined that, if substantiated, this would

constitute misconduct, specifically Improper Use of Firearms and ordered an investigation into the matter.

Upon receiving the *Final Investigation Report*, the Discipline Authority determined that the allegation of *Improper Use or Care of Firearms* had been substantiated and offered the officer a prehearing conference.

An agreement was reached whereby the officer accepted responsibility for his conduct and agreed to Advice to Future Conduct as the disciplinary/corrective measure.

In reviewing the investigation and considering all the relevant factors in this case, it was the OPCC's view that the disciplinary measure imposed at the prehearing conference was both correct and appropriate with respect to the circumstances. Therefore, the agreement reached at the prehearing conference was approved and the resolution was final and binding.

Reportable Injury

OPCC 2014-9314

Pursuant to section 89 of the *Police Act*, this matter was reported to the OPCC as a Reportable Injury Notification. The circumstances reported were that while attempting to do a "clap push-up", a prisoner fell on his right shoulder. Paramedics attended and confirmed the prisoner's shoulder was dislocated and transported him to hospital under guard for treatment.

The OPCC's review of the jail cell video substantiated the department's report that the injury was self-inflicted. Based on all of the relevant information, it was determined that an order for investigation was not necessary in the circumstances and the file was concluded.

Order for Investigation (Request by Department)

OPCC 2010-5217 – Public Hearing 13-02

Please note that as this matter resulted in a Public Hearing, the police department and the officer have been identified in the following summary. For a more in-depth review, please go to PH2013-02 on the Concluded Public Hearings Page on the OPCC's website.

It was brought to the attention of the South Coast British Columbia's Transportation Authority Police Service's Professional Standards Section that Constable Ken Jansen, may have committed the disciplinary default of *Abuse of Authority* in relation to an allegation of excessive force and requested the Police Complaint Commissioner order an investigation into the matter.

It was reported that Constable Jansen attended Surrey Memorial Hospital to meet with a member of the RCMP who was at the hospital with a male he had arrested under the *Mental Health Act*. The two officers were planning to take their dinner break together. While waiting for hospital staff, the male began to punch the RCMP member. Constable Jansen used open-handed force to assist the RCMP member with taking the male under control.

An investigation was completed and, pursuant to section 114 of the *Police Act*, Constable Jansen requested the Discipline Authority direct the investigator to conduct supplemental investigative steps.

During the course of the *Police Act* investigation, further allegations of misconduct were added including *Abuse of Authority*, *Deceit* and *Discreditable Conduct*. The Discipline Authority reviewed the *Final Investigation Report* and determined that allegations of misconduct had been substantiated and the matter was directed to a discipline proceeding.

At the conclusion of the discipline hearing, the Discipline Authority imposed disciplinary and corrective measures which entitled Constable Jansen to a mandatory Public Hearing, pursuant to section 137(1) of the *Police Act*.

Pursuant to section 142(2) of the *Police Act*, an Adjudicator was appointed and a Public Hearing was held. Following the Public Hearing, the Adjudicator found the following allegations to be substantiated:

1. Constable Jansen made an entry in his notebook that to his knowledge was false or misleading and omitted to record in his notebook the use of force against the male, to which he was a witness. (Deceit)
2. Constable Jansen made an entry in his PRIME-BC synopsis page that to his knowledge was false or misleading. (Deceit)
3. Constable Jansen made a PRIME-BC police statement that to his knowledge was false or misleading. (Deceit)
4. Constable Jansen provided a duty report during the *Police Act* investigation that to his knowledge was false or misleading. (Deceit)
5. Constable Jansen provided an oral statement during the *Police Act* investigation that to his knowledge was false or misleading. (Deceit)

Pursuant to section 126 of the *Police Act*, the Adjudicator invited all parties to make submissions with respect to the appropriate disciplinary penalty or corrective measure in relation to the five allegations of deceit that had been substantiated.

After considering all of the relevant information, the Adjudicator subsequently imposed the following disciplinary measures:

Deceit (Counts 1 through 5)

- 14-day suspension without pay for each count of deceit to run concurrently;
- Demotion to the rank of third class Constable.

Order for Investigation (Request by Department)

OPCC 2011-6366-01

The OPCC received a registered complaint, determined it to be admissible, and forwarded it to the department for investigation. During that *Police Act* investigation, information regarding a separate incident came to light. It was reported that two police officers may have used unnecessary force on a prisoner while booking him into cells. As a result, the Chief Constable requested that the Police Complaint Commissioner issue an *External Order for Investigation* into this new information.

An external investigation was conducted and the *Final Investigation Report* was submitted to the Discipline Authority. The external investigator recommended that the allegation of Abuse of Authority be substantiated against both police officers.

The Discipline Authority reviewed the *Final Investigation Report* and issued a decision wherein he advised that the evidence did not support the allegation of abuse of authority against either officer.

The Police Complaint Commissioner reviewed both the *Final Investigation Report* and the Discipline Authority's decision. In his decision, the Discipline Authority stated, "I was unable to seize upon the requisite logical proof or evidence that would allow me to conclude with absolute certainty that either officer intentionally or recklessly used unnecessary force on the male in the course of interacting with him."

The Police Complaint Commissioner believed there was a reasonable basis to believe the Discipline Authority applied the incorrect legal standard in his review of the evidence and was also incorrect in his determination that the conduct of the officer did not constitute misconduct. In *F.H. v. McDougal*, the Supreme Court of Canada determined that the appropriate legal standard to be applied in this forum is a balance of probabilities.

Pursuant to section 117 of the *Police Act*, if the Police Complaint Commissioner is of the view

there is a reasonable basis to believe the Discipline Authority's decision was incorrect, he or she may appoint a retired judge to review the *Final Investigation Report* and arrive at a decision as to whether the allegation is substantiated by the evidence. If the finding is substantiated, the retired judge takes on the role of Discipline Authority for the matter. If the retired judge's finding is that the allegation is not substantiated, the matter is final and conclusive.

After reviewing all of the document evidence, the Adjudicator determined that the evidence referenced in the *Final Investigation Report* and the legal authorities were sufficient to substantiate the allegation of abuse of authority against both officers. The Adjudicator offered both officers a prehearing conference.

At the prehearing conference, no submissions were received or considered. Both police officers accepted the Adjudicator's decision, accepted full responsibility for their actions, and agreed to the following disciplinary or corrective measures:

- A verbal reprimand and advice as to future conduct;
- An order to review police manuals regarding arrest procedures, use of force, and stress issues;
- Complete courses in tactical communications, critical incident de-escalations, and use of force;
- Verification of completion of the fore-mentioned by the Chief Constable.

The OPCC determined that the Adjudicator's decision to substantiate the allegations and the disciplinary measures imposed at the prehearing conference were both correct and appropriate with respect to the circumstances. Therefore, the agreement reached at the prehearing conference was approved and the resolution was final and binding.

Internal Discipline

OPCC 2013-8491

Internal Discipline complaints involve performance management issues or employer/employee concerns that do not affect members of the public and are processed under Division 6 of the *Police Act*.

An internal Discipline Authority must provide the Police Complaint Commissioner with a copy of any recommendation on disciplinary or corrective measures arising from an internal discipline matter, as well as the final decision reached by the internal Discipline Authority, the Board or the Arbitrator.

It came to the attention of the Police Complaint Commissioner that a senior officer had been the subject of an internal investigation, but that the department had neglected to inform the OPCC. The department was contacted and directed to provide all relevant records, along with an explanation for the lack of notification as required under the Act.

The OPCC was informed that the absence of notification was an oversight. The officer involved in this investigation was a member of the Chief's executive team and the Chief was not contemplating it to be a *Police Act* matter. Should a similar investigation occur in the future involving a member of the executive team, the OPCC will be advised.

It was reported that a senior officer of the department produced and distributed within the department, a "Be on the Look Out For" poster with an insulting and unprofessional picture of a fellow officer.

A comprehensive investigation was conducted and based on the report's contents, the senior officer received a 5-day suspension without pay, and was transferred to a different division.

The OPCC reviewed the investigation, noted there were no public trust issues to be addressed, and closed the file.

Internal Discipline

OPCC 2012-8139

It was reported that police were conducting an investigation under the *Controlled Drugs and Substances Act*. A search warrant was obtained and executed on a residence in relation to that investigation.

During the search, a male officer located a sex toy in the couch, turned it on, and touched a female officer's hand with it. The female officer voiced her objection to the male officer's conduct and the male officer issued an apology.

The on-scene supervisor overheard part of the exchange and made a report.

Pursuant to Division 6 of the *Police Act*, an internal discipline investigation was initiated and the OPCC was notified.

Upon receipt of the *Final Investigation Report*, the Discipline Authority determined that the investigation substantiated one count of Discreditable Conduct and imposed the following disciplinary/corrective measures:

- a 4-day suspension without pay; and
- psychological counseling.

The OPCC reviewed the investigation, noted there were no public trust issues to be addressed, and closed the file.

SUBSTANTIATED ALLEGATION SUMMARIES

The following table provides summaries of all *substantiated* allegations against municipal officers which were concluded between April 1, 2013, and March 31, 2014.

Abbotsford Police Department

Ordered Investigation OPCC File 2010-5158 Dates of Incident: Multiple

A police officer used unnecessary force while placing a male under arrest.

Misconduct 1: Abuse of Authority (excessive force/empty hand)

This same police officer made misleading or false statements in a duty report during the *Police Act* investigation.

Misconduct 2: Deceit (false or misleading oral or written statement)

This same police officer made misleading or false statements during an interview with a Professional Standards investigator conducting the *Police Act* investigation.

Misconduct 3: Deceit

This matter went to a Public Hearing wherein the adjudicator imposed the following discipline:

Misconduct 1 Discipline – 3-day suspension without pay; anger management program to be completed to the satisfaction of supervising officers.

Misconduct 2 and 3 Discipline - For each of the disciplinary defaults of deceit, a 25-day suspension without pay.

Registered Complaint OPCC File 2011-6989 Date of Incident: 2011-Nov-27

A police officer attempted to stop a vehicle with emergency lights and siren engaged, however, the vehicle failed to stop for police. When the vehicle was finally stopped, the police officer drew her service pistol, pointed it at the driver, forced her to the ground, and placed her in handcuffs. During this incident, the police officer used inappropriate language towards the complainant. The complainant was later released without criminal charges, but was issued a violation ticket for failing to provide a driver's licence. It was later determined that the police officer did not provide the complainant a reasonable opportunity to produce her driver's licence.

Misconduct 1: Abuse of Authority [excessive force-firearm (person)]

Misconduct 2: Discourtesy

Misconduct 3: Abuse of Authority (improper issuing of process)

Misconduct 1 Discipline - Specified training focusing on use of force including the available options to take persons into custody who are not using force to resist arrest. The training was held in abeyance as the police officer was no longer operational and was retiring from the department at the end of 2013.

Misconduct 2 Discipline - written reprimand

Misconduct 3 Discipline - written reprimand

Registered Complaint	OPCC File 2012-7887	Date of Incident: 2012-Aug-24
A police officer arrested the complainant without sufficient grounds. *Misconduct: Abuse of Authority* (unlawful arrest):		*Discipline*: Training on the elements of offences that may be considered at disturbance calls, including those related to causing a disturbance, breach of the peace, apprehended breach of the peace, and the authority to arrest when reasonable grounds exist to believe that an indictable offence is about to be committed. The training also focused on other opportunities to resolve conflicts, even when grounds to make an arrest may exist. This was to be one-on-one training by a trainer selected by the Chief Constable.
Internal Discipline	OPCC File 2013-8361	Date of Incident: 2013-Jan-25
A police officer sent an inappropriate email to other police officers.		*Discipline*: Written reprimand
Internal Discipline	OPCC File 2013-8504	Date of Incident: July 2012
A police officer made inappropriate comments regarding another police officer and a civilian employee.		*Discipline*: Verbal reprimand
Ordered Investigation (Initiated by the Police Complaint Commissioner)	OPCC File 2013-8561	Date of Incident: 2013-Mar 29
This was originally received as a reportable injury pursuant to section 89(1)(b)(i) of the *Police Act*. The police officer released his police service dog on a suspect prior to issuing a warning. The suspect sustained minor puncture wounds. Unless there are extenuating circumstances present, a dog handler is to obtain a visual on a subject, announce his or her presence and intention, and provide the suspect with the opportunity to surrender. The investigation determined that the officer acted in a manner contrary to training. *Misconduct: Abuse of Authority* (excessive force – dog)		*Discipline*: Written reprimand

SUBSTANTIATED ALLEGATION SUMMARIES

Central Saanich Police Service

No substantiated misconduct in this reporting period

CFSEU (Combined Forces Special Enforcement Unit)

No substantiated misconduct in this reporting period

Delta Police Department

Ordered Investigation (Requested by the department) — OPCC File 2012-7696 — Date of Incident: 2012-Feb-14

While responding to a robbery call, the police officer drove at an excessive speed, resulting in a loss of control of the vehicle. The police vehicle went off the road and struck a fence and wooden utility pole before coming to rest in a water-filled ditch. The police officer suffered minor injuries.

Misconduct: Neglect of Duty (dangerous driving)

Discipline: Advice as to future conduct.

Registered Complaint — OPCC File 2012-7994 — Date of Incident: 2012-Oct-02

Police initiated a traffic stop of a vehicle. The male driver possessed a learner's licence which required that he be accompanied by a qualified supervising driver over 25 years of age. The officer approached the female passenger in order to determine whether she qualified as a supervising driver. The female passenger provided a false name and then said that she did not have a valid driver's licence. The female driver continued to provide a false name and was informed she was going to be arrested for obstruction of justice. The officer used unnecessary force to place the female in handcuffs.

Misconduct: Abuse of Authority

This was the subject of a s.117 review by a retired judge.

Discipline: Verbal reprimand

Registered Complaint — OPCC File 2012-7669-02 — Dates of Incident: Multiple

Officer 1: Members of the Integrated Gang Task Force Unit conducted a traffic stop of the complainant and his friends. During the traffic stop, the officer treated the complainant in a discourteous manner.

Misconduct: Discourtesy

Officer 2: A few hours later, the complainant was at a nightclub when members of the Integrated Gang Task Force Unit removed him pursuant to Bar Watch protocol.

The investigation into this registered complaint determined that the officer failed to record in his police notebook any details of his shift's activities for the dates of October 21, 2011, to

Officer 1 Discipline: Written reprimand; direction to training as directed by employer.

Officer 2 Discipline: Written reprimand.

October 22, 2011. This was contrary to Delta Police Department policy as well as contrary to the expectations of police officers and their duty to record evidence and potentially testify.

Misconduct: Neglect of Duty (inadequate documentation, notes, records)

Nelson Police Department

Ordered Investigation OPCC File 2011-6366-01 Date of Incident: 2011-Apr-30
(Requested by the department)

Two police officers used unnecessary force on a suspect while booking him into cells.

Officer 1 Misconduct: Abuse of Authority (excessive force – empty hand)

Officer 2 Misconduct: Abuse of Authority (excessive force – empty hand)

This was the subject of a s.117 review by a retired judge.

Officer 1 Discipline: Verbal reprimand and advice as to future conduct; an order to review police manuals regarding arrest procedures, use of force, and stress issues; complete courses in tactical communications critical incident de-escalations, and use of force.

Officer 2 Discipline: Verbal reprimand and advice as to future conduct; an order to review police manuals regarding arrest procedures, use of force, and stress issues; complete courses in tactical communications critical incident de-escalations, and use of force.

New Westminster Police Department

Registered Complaint OPCC File 2012-8126 Date of Incident: 2012-Mar-18

A police officer failed to sufficiently document investigative steps during an investigation.

Misconduct: Neglect of Duty (inadequate documentation/ notes/records)

Discipline: Advice as to future conduct.

Ordered Investigation OPCC File 2013-8328 Date of Incident: 2013-Nov-22
(Requested by the department)

A police officer conducted unauthorized searches utilizing police databases for purposes unrelated to his duties as a police officer.

Misconduct 1: Unauthorized Use of Police Facilities/Resources

This same police officer shared the information with a person not entitled to receive or access this information.

Misconduct 2: Improper Disclosure of Information

Misconduct 1 Discipline: Dismissal

Misconduct 2 Discipline: Dismissal

SUBSTANTIATED ALLEGATION SUMMARIES

Ordered Investigation (Requested by department) | OPCC File 2013-8727 | Date of Incident: 2013-Feb-05

A police member, operating an unmarked vehicle, attempted to catch up to the subject vehicle when the traffic light changed from green to red. After stopping and "clearing" the intersection, the police member crossed the double yellow centre line and entered the intersection, travelling westbound in the eastbound lane. Once in the intersection, the police vehicle collided with a civilian vehicle that was travelling northbound. The police member was issued a violation ticket for failing to stop at a red light at intersection, contrary to section 129 of the *Motor Vehicle Act*.

In relation to the Ordered Investigation, the police member was found to have neglected to comply with section 122(1) of the *Motor Vehicle Act* and *Emergency Vehicle Driving Regulation*.

Misconduct: Neglect of Duty (dangerous driving)

Discipline: Written reprimand

Oak Bay Police Department

Registered Complaint | OPCC File 2011-6937 | Dates of Incident: March – October 2011

The police officer was involved in an inappropriate relationship with a female, while assigned as the primary investigator of a police file where the female was the complainant.

Misconduct 1: Discreditable Conduct (conduct that discredits the department)

The police officer spent large periods of time at the female's residence while on duty for a purpose unrelated to his duties as a police officer.

Misconduct 2: Discreditable Conduct (conduct that discredits the department)

The police officer knowingly made a misleading or false oral statement to his supervisor regarding the nature of his relationship with the female.

Misconduct 3: Deceit (false or misleading oral or written statement)

Misconduct 1 Discipline: 12-day suspension without pay; successful completion of a police training course on communication.

Misconduct 2 Discipline: 4-day suspension without pay to be served consecutively to the 12-day suspension; work under close supervision for one year; successful completion of a police training course on ethics and accountability.

Misconduct 3 Discipline: 10-day suspension without pay to be served consecutively with the other suspensions imposed.

Port Moody Police Department

No substantiated misconduct in this reporting period

Saanich Police

Ordered Investigation OPCC File 2011-6446 Dates of Incident: Multiple
(Requested by the department)

A police officer failed to complete adequate notes or submit a police report documenting his involvement in the arrest of a male.

Misconduct 1: Neglect of Duty (inadequate documentation/notes/records)
Date of Incident: February 12, 2010

This same police officer failed to report the loss of one of his police notebooks.

Misconduct 2: Damage to Police Property (failure to report loss or damage to police property)
Date of Incident: January 4, 2011

This same police officer arrested a male for being in a state of intoxication in a public place after persuading him to exit his residence and step onto a public street.

Misconduct 3: Abuse of Authority (unlawful arrest)
Date of Incident: May 20, 2011

Misconduct 1 Discipline: Written reprimand

Misconduct 2 Discipline: Written reprimand

Misconduct 3 Discipline: 7-day suspension without pay. The officer requested a Public Hearing in relation to the substantiation of Abuse of Authority and the penalty imposed. At the conclusion of the Public Hearing, the Adjudicator determined that the allegation of Abuse of Authority had been proven on the balance of probabilities and further determined that the 7-day suspension from duty without pay was a proper and adequate punishment.

Ordered Investigation OPCC File 2012-8129 Date of Incident: 2012-Nov-09
(Requested by department)

An off-duty police officer received a "90-day Immediate Roadside Prohibition" after registering a "fail reading" on an ASD (Approved Screening Device).

Misconduct: Discreditable Conduct

Discipline: 1-day suspension without pay

Ordered Investigation OPCC File 2013-8788 Date of Incident: 2013-May-08
(Requested by department)

The police officer left a firearm at a training site.

Misconduct: Improper Use and Care of Firearms

Discipline: Advice to future conduct

As a result of this incident, the Saanich Police Department advised that all Use of Force Instructors would be briefed on the implementation of a new Equipment Check Sheet and the need to ensure that all items are accounted for at the end of each training day.

Ordered Investigation OPCC File 2013-8997 Date of Incident: 2013-Aug-20
(Initiated by the Police Complaint Commissioner)

The police officer was in the Saanich Police Department's secure firearms room when he accidently discharged one round from his police issued firearm.

Misconduct: Improper Use and Care of Firearms

Discipline: Advice to future conduct

Transit Police Service (SCBCTAPS)

Registered Complaint	OPCC File 2012-7701	Date of Incident: 2012-Jun-27
While issuing a ticket to the complainant, a police officer used derogatory and insulting language. *Misconduct: Discourtesy (x2)*		*Discipline*: Written reprimand (x2)
Ordered Investigation (Requested by department)	OPCC File 2012-7905	Date of Incident: 2012-Sep-12
An off-duty police officer was involved in a fight. Police attended and subsequently arrested the off-duty officer for being in a state of intoxication in a public place. *Misconduct 1: Discreditable Conduct* While being held in cells, the off-duty police officer assaulted one of the arresting officers. *Misconduct 2: Discreditable Conduct*		*Misconduct 1 Discipline*: 5-day suspension without pay *Misconduct 2 Discipline*: Reduction in rank The officer resigned during the investigation. Pursuant to section 133(5) of the *Police Act*, a former officer who is aggrieved by the findings of a Discipline Authority may file a written request for a Public Hearing or Review on the Record with the Police Complaint Commissioner. No request was received from the former officer.
Ordered Investigation (Requested by department)	OPCC File 2012-8046	Date of Incident: 2012-Aug-31
A police officer failed to document and process seized property that was in his possession. *Misconduct: Neglect of Duty* (failure to account for property received)		*Discipline*: Written reprimand
Ordered Investigation (Requested by department)	OPCC File 2012-8086	Date of Incident: 2012-Aug-29
While on-duty, a police officer recognized an individual suspected of having caused mischief to the window of a police vehicle. Officer 1 contacted her supervisor, Officer 2, and asked for direction. Officer 2 directed Officer 1 to attempt to elicit an admission from the suspect and to attempt to have him pay for the damages, thereby eliminating the need for criminal charges. Officer 1 spoke to the male who agreed to pay the charges rather than face criminal prosecution. The costs were determined to be $201.60. Officer 1 obtained the money and turned it over to Officer 2 who submitted the cash to her superiors along with a memo explaining how the money was obtained. As a result of the memo, the department requested an Order to Investigate: Officer 1 for having caused the male to pay restitution for an offence that he was never charged with or convicted of; Officer 2 for providing supervisory direction to		*Officer 1 Discipline*: Written reprimand *Officer 2 Discipline*: Verbal reprimand

Officer 1, the outcome of which caused a member of the public to pay restitution for an offence he was never charged with or convicted of. The monies were returned to the male.

Misconduct: Discreditable Conduct (x2)

Ordered Investigation OPCC File 2010-5217 Date of Incident: 2010-Apr-22
(Requested by department)

An RCMP Code of Conduct investigation was initiated into an allegation of excessive force used on a male by a member of the RCMP. During the Code of Conduct investigation, it was determined that a SCBCTAPS officer was also present when the incident took place. Accordingly, the department requested an Order for Investigation in relation to the police officer.

The officer made a false entry in his notebook and failed to make a note about the force used on the male to which he was a witness.

Misconduct 1: Deceit

The officer made an entry in his PRIME-BC synopsis page that he knew was false or misleading.

Misconduct 2: Deceit

The officer made a PRIME-BC statement that to his knowledge was false or misleading.

Misconduct 3: Deceit

During the *Police Act* investigation, the officer provided a duty report to the investigator that he knew was false or misleading.

Misconduct 4: Deceit

During the *Police Act* investigation, the officer made an oral statement to the investigator that he knew was false or misleading.

Misconduct 5: Deceit

Misconducts 1-5 Discipline: 14-day suspension without pay for each count of deceit to run concurrently; demotion to the rank of third class constable.

Ordered Investigation OPCC File 2012-7363 Date of Incident: 2011-Jul-17
(Requested by department)

Officer 1 failed to record in his notebook the count of all money seized, recovered, or found.

Misconduct 1: Neglect of Duty

The police officer failed to account for money or property received in his capacity as a police officer.

Misconduct 2: Neglect of Duty

Officer 2 failed to record in her notebook the count of all money seized, recovered, or found.

Misconduct 3: Neglect of Duty (properly account for money

Officer 1 Discipline: Written reprimand; training.

The officer was to undergo close supervision for a period of 96 workdays. During that time, the officer was to receive training which would include the use of police computer systems, exhibit handling, note taking and the policies associated to these areas. The training was also to enhance basic police skills. At the conclusion of the training, the

or property received in one's capacity as an officer)

assigned trainer was to complete an assessment for inclusion in the officer's discipline file.

Officer 2 Discipline: Advice to future conduct

Ordered Investigation OPCC File 2013-8765 Date of Incident: 2013-Mar-13
(Requested by department)

The police officer removed exhibits from the exhibit room for destruction contrary to the direction of a supervisor.

Misconduct: Neglect of Duty (failure to follow supervisor's lawful order)

Discipline: Verbal reprimand; the officer was also permanently removed from the position of Exhibit Custodian.

Stl'atl'imx Tribal Police

No substantiated misconduct in this reporting period

Vancouver Police Department

External Ordered Investigation OPCC File 2011-6443 Dates of Incident: Multiple
(Requested by department)

Officer 1
A police officer failed to properly account for money received in his capacity as a police officer.

Misconduct 1: Neglect of Duty (Failure to account for money/property received)
Date of Incident: Dec 2009 to July 2010

Officer 2
A police officer failed to consult with his department's Human Source Handling Unit before meeting with an informant alone and returning seized monies to the informant.

Misconduct 2: Neglect of Duty
Date of Incident: Dec 2009 to Jan 2010

This same police officer failed to document, report and or dispose of money received in his capacity as an officer.

Misconduct 3: Neglect of Duty (failure to account for money/property received)
Date of Incident: July 2010 to May 2011

Officer 1 Discipline: Advice to future conduct

Officer 2 Discipline: Training regarding proper source handling, document processing, and property disposition

Misconduct 3: 1-day suspension without pay

Ordered Investigation OPCC File 2011-6700 Date of Incident: 2011-Aug-19
(Requested by department)

During the course of placing a male under arrest, the male spat in the police officer's face. The police officer retaliated by striking the male in the face.

Misconduct: Abuse of Authority (excessive force – empty hand)

Discipline: 2-day suspension without pay

Registered Complaint OPCC File 2011-6835 Date of Incident: 2011-Oct-08
(initially received from the department as a Reportable Injury Notification)

A police officer deployed his police dog without justification to assist in apprehending the complainant suspected of break and entering. The complainant suffered injuries to his back and neck.

Misconduct: Abuse of Authority (excessive force – dog)

Discipline: Verbal reprimand

Ordered Investigation OPCC File 2012-7270 Date of Incident: 2012-Mar-03
(Requested by the department)

While off-duty, a police officer consumed liquor and then operated a motor vehicle. When stopped by the RCMP for an impaired driving investigation, the officer disclosed that he was a police officer in order to receive favourable treatment.

Misconduct: Discreditable Conduct (x2)

Discipline: 1-day suspension without pay (x2)

Registered Complaint OPCC File 2012-7665 Date of Incident: 2011-Jul-08

A police officer failed to submit photographs depicting an assault victim to Crown.

Misconduct: Neglect of Duty (inadequate investigation)

Discipline: Verbal reprimand

Ordered Investigation OPCC File 2012-7747 Date of Incident: 2012-Apr-21
(Requested by the department)

A police officer conducted unauthorized searches utilizing police databases for purposes unrelated to his duties as a police officer.

Misconduct 1: Unauthorized Use of Police Facilities/Resources

Misconduct 1 Discipline: Dismissal

This same officer maintained a personal relationship with an individual that he knew was an associate of individuals involved in criminal activity.

Misconduct 2: Discreditable Conduct

Misconduct 2 Discipline: Dismissal

This same officer, while on duty and off duty, used the services of a prostitute.

Misconduct 3: Discreditable Conduct

Misconduct 3 Discipline: Dismissal

SUBSTANTIATED ALLEGATION SUMMARIES

Ordered Investigation (Requested by department)	OPCC File 2013-8326	Date of Incident: 2012-Dec-12
A police officer, responding to a call, operated an unmarked police vehicle in a dangerous manner, resulting in an accident. No one was injured as a result of the collision, however, the police vehicle sustained $4,000 worth of damage. *Misconduct 1: Discreditable Conduct* *Misconduct 2: Damage to Police Property* (misusing/losing/damaging police property)		*Misconduct 1 Discipline*: 2-day suspension without pay *Misconduct 2 Discipline*: Advice to future conduct
Internal Discipline	OPCC File 2013-8491	Date of Incident: 2013-Jan-24
A police officer produced and distributed within the department a "Be on the Look Out For" poster with a picture of a fellow officer which was insulting and unprofessional.		*Discipline*: 5-day suspension without pay; transfer/reassignment
Ordered Investigation (Requested by department)	OPCC File 2013-8831	Date of Incident: 2013-Jun-21
While on duty, the police officer did not comply with section 122 of the *BC Motor Vehicle Act*, the *Emergency Vehicle Driving Regulation*, and VPD Policy by operating a police vehicle as an emergency vehicle when not responding to an emergency situation. *Misconduct 1: Discreditable Conduct* While attempting to pass another vehicle, the police officer collided with the driver's side of that vehicle. This action resulted in minor damage to both vehicles. The police officer failed to stop his vehicle, remain at the scene, and follow VPD policy in relation to police involved collisions. *Misconduct 2: Neglect of Duty*		*Misconduct 1 Discipline*: Written reprimand; training regarding section 122 of the *Motor Vehicle Act*, the *Emergency Vehicle Driving Regulation* and VPD Policy as it pertains to code-three vehicle operation. *Misconduct 2 Discipline*: 3-day suspension without pay; training regarding VPD policy as it relates to officer responsibility in police involved collisions.
Ordered Investigation (Requested by department)	OPCC File 2012-8934	Date of Incident: 2013-Jul-16
The police officer failed to properly secure his police issued firearm. *Misconduct: Improper Use or Care of Firearms*		*Discipline*: Verbal reprimand
Ordered Investigation (Requested by department)	OPCC File 2013-9151	Date of Incident: 2013-Oct-17
While off duty, the police officer was the subject of a traffic stop wherein he registered a "warn" on two separate ASD devices. As a result, the officer was issued a 3-day Immediate Roadside Prohibition. *Misconduct: Discreditable Conduct*		*Discipline*: 1-day suspension without pay

Victoria Police Department

Ordered Investigation (Requested by department) — OPCC File 2012-7689 — Date of Incident: 2012-Jul-02

A police officer sent an email from his department email address that contained an image of a naked male.

Misconduct 1: Unauthorized Use of Police Facilities/Resources

Misconduct 2: Discreditable Conduct

Misconduct 1 Discipline: Alcohol and psychological counseling.

Misconduct 2 Discipline: 8-day suspension without pay.

Internal Discipline — OPCC File 2012-8139 — Date of Incident: 2012-Nov-16

While part of a search team executing a warrant at a residence, a police officer inappropriately touched another officer with a sex toy he had located.

Discipline: 4-day suspension without pay; psychological counseling.

Ordered Investigation (Requested by department) — OPCC File 2012-8206 — Date of Incident: 2012-Dec-08

During a check stop where a police officer's girlfriend was requested to provide breath samples, the officer verbally engaged the investigating officer in an aggressive and abusive manner, impeding the impaired driving investigation.

Misconduct: Discreditable Conduct

Discipline: Written reprimand

Ordered Investigation (Requested by department) — OPCC File 2012-8790 — Date of Incident: 2013-Jun-17

A police officer, while off duty, was the subject of a traffic stop. During the traffic stop, the officer identified himself as a police officer. After receiving the violation ticket, the officer made unprofessional remarks to the issuing officer.

Misconduct: Discreditable Conduct

Discipline: Verbal reprimand

Internal Discipline — OPCC File 2014-9467 — Date of Incident: 2013-Aug-21

The police officer damaged a computer monitor in the patrol writing room. The police officer subsequently failed to report the damage.

Misconduct: Damage to Police Property

Discipline: Written reprimand; pay monies towards the replacement cost of the computer monitor and any related recycling fee.

West Vancouver Police Department

Ordered Investigation (Requested by department) — OPCC File 2013-8482 — Date of Incident: 2012-Oct-11

A police officer failed to provide a police statement and/or take adequate notes detailing the officer's involvement in an investigation.

Misconduct: Neglect of Duty (inadequate documentation/notes/records)

Discipline: Advice to future conduct; review department policies in relation to notebooks and note-taking under the direction of a superior.

SUBSTANTIATED ALLEGATION SUMMARIES

Internal Discipline	OPCC File 2013-8483	Date of Incident: 2012-Oct-28
A police officer failed to submit a required police report, or properly handle and account for evidence in relation to a police investigation.		*Discipline*: Advice to future conduct; review department operational policies on note-taking and property handling under the direction of a superior.

Internal Discipline	OPCC File 2013-8653	Date of Incident: 2013-Apr-20
While participating at an event sponsored by the police department, a police officer allowed a member of the public to wear his police-issued jacket in public view.		*Discipline*: Advice to future conduct; review department operational policies on standards of conduct under the direction of a superior.

Ordered Investigation (initiated by the Police Complaint Commissioner)	OPCC File 2013-8554	Date of Incident: 2013-Feb-04
The police officer drove his police vehicle in a manner contrary to the provisions of the *Emergency Vehicle Driving Regulation* and section 122 of the *Motor Vehicle Act*. *Misconduct: Neglect of Duty*		*Discipline*: Advice to future conduct. Under the direction of a supervisor, the officer was to review departmental policy, section 122 of the *Motor Vehicle Act – Exemption for Emergency Vehicles*, and *Emergency Vehicle Driving Regulations* Section 4 – *Emergency Response by a Peace Officer*.

Statistical Reports - Introduction

When a complaint is received at the OPCC, a file is opened and assigned to an investigative analyst. All complaints are reviewed by an admissibility analyst to determine whether they are admissible pursuant to the *Police Act* and if so, complaints are then broken down into their individual allegations. An admissible complaint file often contains more than one allegation, involving one or more officers.

The following is an example of how one complaint file can result in multiple allegations and results:

> *A complainant states that three officers entered his residence without a warrant and two officers used excessive force in order to handcuff him. The complainant further states one officer unlawfully seized property that was subsequently lost.*

The admissibility analyst would review the complaint and break it down into its individual components or "allegations". The above complaint would likely be broken down into the following allegations of misconduct as defined by the *Police Act:*

> **Abuse of Authority** (unlawful entry) – involving three members
>
> **Abuse of Authority** (excessive force) – involving two members
>
> **Abuse of Authority** (unlawful seizure of property) – involving one member
>
> **Neglect of Duty** (improper care and handling of seized property) – involving one member

Following the investigation, the Discipline Authority may determine that none, some or all the allegations of misconduct have been proven against none, some or all of the officers. Continuing with the example above, the decision may be:

> **Abuse of Authority** (unlawful entry) – Substantiated against officers #1, #2 and #3
>
> **Abuse of Authority** (excessive force) – Substantiated against officer #2
>
> **Abuse of Authority** (unlawful seizure of property) – Not substantiated
>
> **Neglect of Duty** (improper care and handling of seized property) – Not substantiated

Please note the data contained in the following report may vary slightly from previously released statistical report. Where differences exist, it can be assumed that the most current data release reflects the most accurate and up-to-date data.

APPENDIX A: STATISTICAL REPORTS

Files Opened

Yearly Comparisons (since *Police Act* amendments)

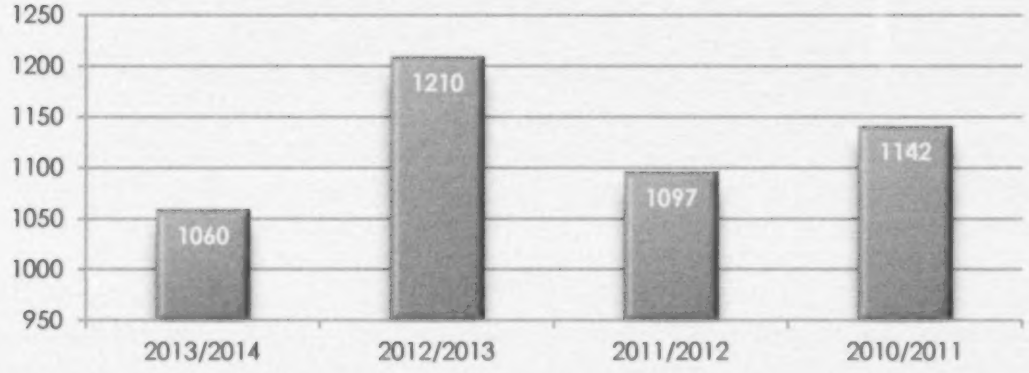


Chart 2: Files Opened by Year

Yearly Comparisons by Department (since *Police Act* amendments)

Department	2013/2014	2012/2013	2011/2012	2010/2011
Abbotsford	105	93	90	106
Central Saanich	6	9	10	7
CFSEU	1	1	0	1
Delta	46	70	66	89
Nelson	12	7	13	8
New Westminster	48	63	58	46
Oak Bay	5	5	3	14
Port Moody	27	25	24	24
Saanich	54	64	59	54
SCBCTAPS	52	72	75	54
Stl'atl'imx	1	6	1	1
Vancouver	537	596	544	545
Victoria	133	153	113	152
West Vancouver	33	46	41	41
TOTAL	**1060**	**1210**	**1097**	**1142**

Chart 3: Files Opened by Department

Complaint Categories

The OPCC breaks down files into the following categories:

Registered Complaints are formal complaints by members of the public concerning the conduct of municipal police officers. For reporting purposes, service or policy files are also included in this category.

Non-Registered Complaints are any oral or written report by a member of the public that raises concerns or questions about the conduct of an officer, but that does not result in the registration of a formal complaint. If a non-registered complaint contains allegations of a serious nature, the department may request the Commissioner order an investigation or the Commissioner may order an investigation on his or her own initiative if it is deemed to be in the public interest.

Ordered Investigations may be ordered by the Commissioner, whether upon the request of a department or as a result of information received from any source that raises concerns about officer misconduct. This also includes mandatory external investigations into serious harm or death incidents pursuant to section 89 of the *Police Act*.

Monitor Files are opened when information is received by the OPCC from the police, including Reportable Injuries, or other sources such as media reports that may require an investigation pursuant to the *Police Act*. Typically, these are incidents which are serious in nature or that have generated media attention, but where no potential disciplinary defaults have been identified to date. These files are held open until a report is received from the police. The matter is reviewed and a decision is made as to whether an Ordered Investigation is required. If no action is deemed necessary, the file is concluded as "Reviewed & Closed".

Internal Discipline are files concerning the conduct or deportment of an officer that is of concern to his/her employer, but does not directly involve or affect the public, and is not the subject of a complaint under Division 3.

Complaint Types

Files Opened in 2013/2014 by Type

Types of Files	Total	Percentage
Ordered Investigations	93	8.8%
Internal Investigations	14	1.3%
Admissible Registered Complaints	226	21.2%
Inadmissible Registered Complaints	289	27.3%
Admissibility Decision Pending	1	-
Non-Registered Complaints	113	10.8%
Monitor	321	30.3%
Service or Policy	3	-
TOTAL	**1060**	**100%**

Chart 4: Files Opened by Type

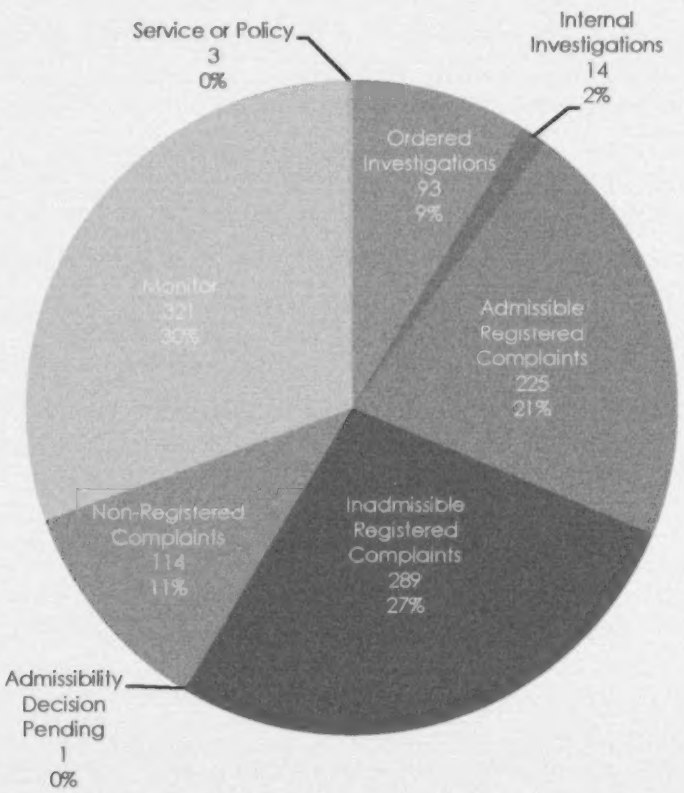


Chart 5: Files Opened in 2013/2014 by Type

Files Opened in 2013/2014 by Department & Category

	TOTAL	Inadmissible Registered Complaint	Complaint Withdrawn Prior to Admissibility Determination	Admissible Registered Complaint	Admissibility Pending	Mandatory Investigation	Ordered Investigation (Dept Request)	Ordered Investigation (PCC Initiated)	Monitor Files	Non-Registered Complaint	Internal Discipline Matter	Service or Policy Matter
Abbotsford	105	20	1	23	0	1	5	9	38	5	3	0
Central Saanich	6	2	0	2	0	0	0	0	1	1	0	0
CFSEU	1	1	0	0	0	0	0	0	0	0	0	0
Delta	46	9	0	4	0	1	3	2	16	9	2	0
Nelson	12	6	0	2	0	0	0	0	3	1	0	0
New Westminster	48	13	1	6	0	2	5	1	15	1	4	0
Oak Bay	5	4	0	1	0	0	0	0	0	0	0	0
Port Moody	27	6	0	4	0	0	0	1	2	14	0	0
Saanich	54	19	1	8	0	0	4	2	7	13	0	0
SCBCTAPS	52	17	1	9	0	1	4	0	18	2	0	0
Stl'atl'imx	1	1	0	0	0	0	0	0	0	0	0	0
Vancouver	537	123	6	134	1	17	13	6	191	41	2	3
Victoria	133	38	3	31	0	5	6	1	26	22	1	0
West Vancouver	33	16	1	2	0	1	2	1	4	4	2	0
TOTAL:	1060	275	14	226	1	28	42	23	321	113	14	3

Chart 6: Files Opened by Category

APPENDIX A: STATISTICAL REPORTS

How Registered Complaints Were Received in 2013/2014

A complaint may be submitted directly to the police department involved, or to the OPCC. Complaints submitted to the OPCC may be made on-line through the OPCC website, by mail, email, fax, phone or in person. Pursuant to the *Police Act*, all persons receiving the complaint must:

- ✓ provide the complainant with any assistance that may be required in making the complaint; and
- ✓ offer information or advice regarding the complaint process.

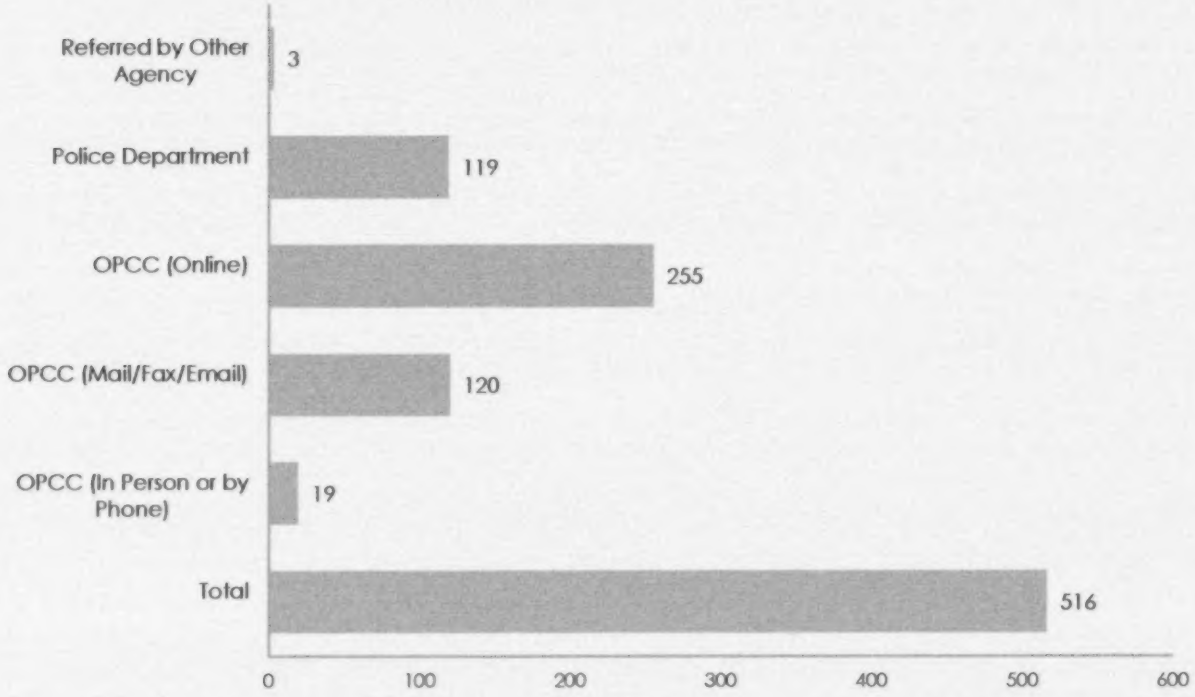


Chart 7: How Complaints Were Received

Admissibility of Registered Complaints Received in 2013/2014

The legislation requires that all registered complaints received must first be reviewed by the OPCC to determine whether they are admissible under Division 3 – Public Trust – of the *Police Act*.

In order for a complaint to be deemed admissible, it must:

- contain allegation(s) of conduct that, if proven, would constitute misconduct as defined by the Act;
- be filed within one year of when the incident occurred; and
- not be frivolous or vexatious.

A complaint may also be deemed "inadmissible" as a Public Trust complaint, but still be investigated under the *Police Act* under different divisions. If it contains allegations that concern a department's services or policies, it would be processed under Division 5 of the Act. If the complaint contains labour/management issues, it would be processed under Division 6 of the Act.

A registered complaint must also involve a municipal police department to be under the jurisdiction of the OPCC.

Admissibility of Complaints in 2013/2014	Total
Admissible	226
Frivolous/Vexatious	5
No Misconduct Identified	223
Out of Time	33
No Jurisdiction	7
Service or Policy	7
Withdrawn Prior to Admissibility Determination	14
Pending Admissibility	1
TOTAL	516

Chart 8: Admissibility of Complaints Received

Breakdown of Admissibility Reviews in 2013/2014

When conducting an admissibility review, the primary document relied upon is the complaint itself. However, if the information in the complaint is not clear, the analyst may contact the complainant to confirm the material aspects of the complaint. If necessary, the analyst may contact the originating police agency for further information, in order to have context in which to assess the allegations and arrive at a principled decision regarding the admissibility of the complaint.

Analysts are careful not to weigh the evidence at this stage, but in exercising their gate-keeping function, they must ensure they have considered all the relevant circumstances which provide an accurate context to the matter.

With this important gate-keeping role, the OPCC has been able to reduce the number of complaint files that are forwarded to municipal departments, thereby reserving the full investigations for those complaints that truly require and demand an in-depth investigation.

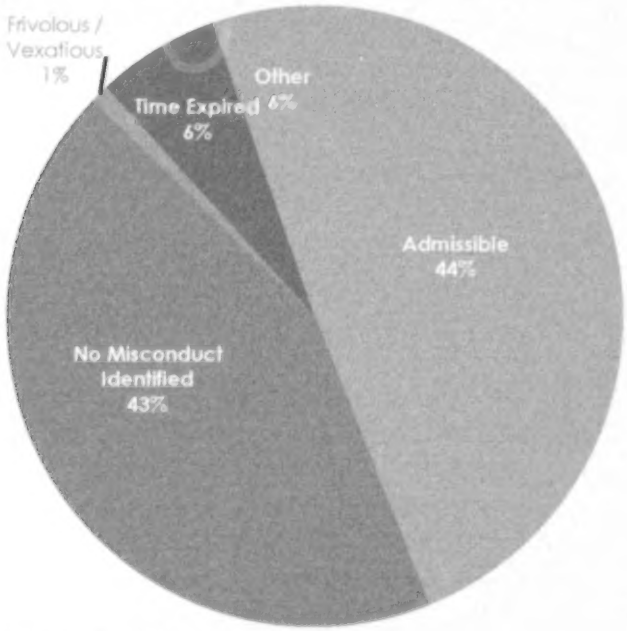


Chart 9: Percentage of Admissibility of Complaints in 2013/2014

Admissibility Comparisons

Breakdown of Registered Complaints by Fiscal Years						
		Inadmissible				
Fiscal Year	Admissible	No Misconduct Identified	Filed Out of Time	Frivolous/ Vexatious	Other	Pending Decision
2010/2011	339 (52%)	228	42	20	19	0
2011/2012	220 (41%)	245	33	3	33	0
2012/2013	265 (44%)	218	45	6	42	0
2013/2014	226 (44%)	223	33	5	28	1

Chart 10: Complaints by Fiscal Year

Types of Misconduct Alleged

Once a complaint file is deemed admissible or an investigation is initiated, the complaint is analyzed and broken down into the individual allegations of misconduct, against individual officers. The *Police Act* identifies 13 separate categories of misconduct:

- Abuse of Authority
- Accessory to Misconduct
- Corrupt Practice
- Damage to Police Property
- Damage to Property of Others
- Deceit
- Discourtesy
- Discreditable Conduct
- Improper Disclosure of Information
- Improper Off Duty Conduct
- Improper Use or Care of Firearms
- Misuse of Intoxicants
- Neglect of Duty

The chart below shows the types of misconduct that were alleged in 2013/2014. These are only allegations received and do not reflect whether they were substantiated or unsubstantiated.

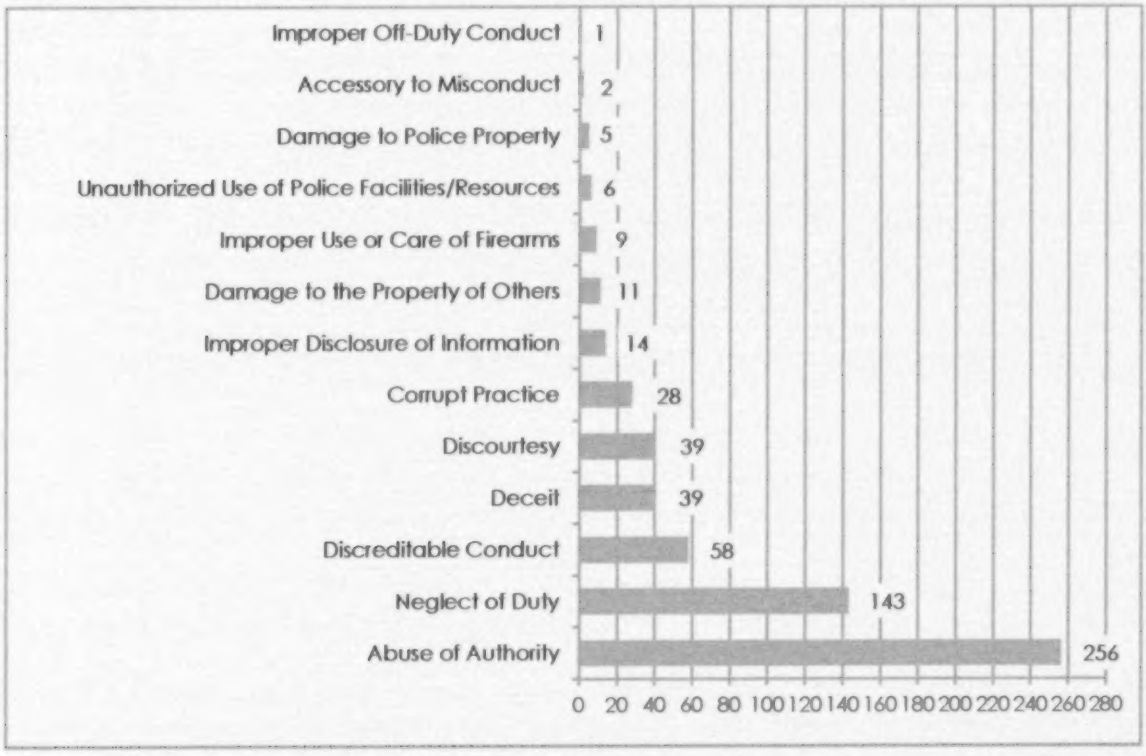

Improper Off-Duty Conduct 1
Accessory to Misconduct 2
Damage to Police Property 5
Unauthorized Use of Police Facilities/Resources 6
Improper Use or Care of Firearms 9
Damage to the Property of Others 11
Improper Disclosure of Information 14
Corrupt Practice 28
Discourtesy 39
Deceit 39
Discreditable Conduct 58
Neglect of Duty 143
Abuse of Authority 256
0 20 40 60 80 100 120 140 160 180 200 220 240 260 280

Chart 11: Types of Alleged Misconduct for 2013/2014

NOTE:

- *These are allegations arising from admissible registered complaints and ordered investigations pursuant to Division 3 (Public Trust)*
- *A single registered complaint or ordered investigation may contain more than one allegation of misconduct.*
- *"Unauthorized Use of Police Facilities/Resources" is a subsection of "Corrupt Practice". The OPCC distinguishes this as a separate category of misconduct in order to statistically capture more fully misconduct such as unauthorized searches of CPIC or PRIME-BC.*

Allegations Concluded Between April 1, 2013, and March 31, 2014

The following figures refer to allegations, not complaint files as in the previous section. A complaint file may contain many allegations of misconduct, involving multiple police officers, and have a variety of outcomes. Therefore, straight comparisons between opened files and concluded allegations cannot be made.

Allegations of misconduct against an officer may result in one or more of the following outcomes:

Withdrawn	A complainant may withdraw his/her complaint at any time in the process, however, the commissioner may direct that the investigation continue if it is determined to be in the public interest to do so.
Informally Resolved	A complaint may be informally resolved pursuant to Division 4 of the *Police Act*. Both parties must sign a Consent Letter outlining the agreement and both parties have 10 business days in which to change their mind. The OPCC reviews all informal resolutions and if the Commissioner determines it is inappropriate or inadequate, the resolution is set aside and the investigation continues. Under the previous legislation, once an informal resolution was agreed upon by the respondent officer and the complainant, the Commissioner did not have the authority to review the agreement or have it set aside.
Mediated	A complaint may be resolved through mediation, facilitated by a professional mediator. If no agreement can be reached, the investigation continues. Amendments to the *Police Act* provide the Commissioner the authority to direct a Complainant to attend a mediation, and similarly, the Chief Constable may order the officer to attend.
Discontinued	The Commissioner may discontinue an investigation into allegations of misconduct if it is determined that further investigation is neither necessary nor reasonably practicable, or if it is found that the complaint is frivolous, vexatious or made knowing the allegations were false. Under the previous legislation, complaints that met any of these criteria were summarily dismissed.
Substantiated	If, following an investigation, the Discipline Authority determines the allegation is supported by the evidence, the Discipline Authority must then decide on appropriate disciplinary and/or corrective measures to impose. The officer may accept the proposed measures at a prehearing conference, or the matter may proceed to a discipline proceeding. The Commissioner may arrange for a Public Hearing or Review on the Record by a retired judge if it is in the public interest. The officer also has an automatic right to a Public Hearing or Review on the Record if the proposed penalty is a reduction in rank or dismissal.
Not Substantiated	Following an investigation, the Discipline Authority may determine there is no evidence to support the allegation of misconduct. All complaints determined to be unsubstantiated are reviewed by the OPCC and if it is determined that it is in the public interest to have the decision reviewed, the Commissioner may appoint a retired judge to conduct a review of the investigation and arrive at a decision.

Allegations Concluded in 2013/2014

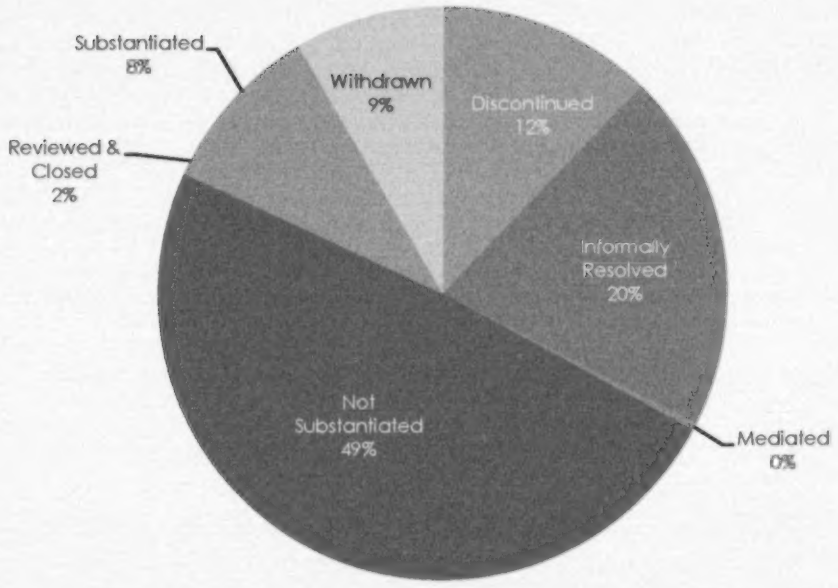


Chart 12: All Allegations Concluded in 2013/2014

Beginning in October 2012, the OPCC began looking deeper into why complainants chose to withdraw their complaints and created the following subcategories:

- Withdrawn – Frustrated with process
- Withdrawn – Loss of interest
- Withdrawn – Satisfied
- Withdrawn – Other

Since October 2012, 51% of withdrawn complaints were because complainants were satisfied with the actions taken or explanation provided.

APPENDIX A: STATISTICAL REPORTS

Yearly Comparisons of Allegations Concluded

The following figures reflect allegations that were concluded by the OPCC.

	Fiscal 2010/2011		Fiscal 2011/2012		Fiscal 2012/2013		Fiscal 2013/2014	
Discontinued	191	19%	115	12%	66	8%	118	12%
Informally Resolved	114	11%	164	17%	170	21%	196	20%
Mediated	26	3%	11	1%	0	0%	4	0%
Reviewed & Closed*	15	1%	9	1%	12	1%	15	1%
Substantiated	96	9%	109	11%	108	13%	78	8%
Not Substantiated	479	47%	532	54%	361	45%	473	49%
Withdrawn	105	10%	51	5%	88	11%	82	8%
Total Allegations Concluded	1,026		991		805		966	

Chart 13: All Allegations Concluded by Reason and Fiscal Year

Adjudicative Reviews

Under the previous legislation, there was only one avenue for review – a Public Hearing. The new *Police Act* offers three avenues of review following a Discipline Authority's decision:

1. Appointment of a New Discipline Authority [s.117]

If, on review of the Discipline Authority's decision, the Police Complaint Commissioner considers that there is a reasonable basis to believe that the decision is incorrect, the Commissioner may appoint a retired judge to act as a new Discipline Authority, review the matter and make a decision.

In 2013/2014, the Commissioner appointed a retired judge to act as a new Discipline Authority on five complaint files.

2. Review on the Record [s.141]

The Police Complaint Commissioner may arrange for a Review on the Record if there is a reasonable basis to believe:

- the Discipline Authority's findings following a discipline proceeding are incorrect;
- the corrective and/or disciplinary measures proposed by the Discipline Authority are not in compliance with the Act, or it is in the public interest to arrange a Review on the Record.

A retired judge is appointed as an adjudicator to review the disciplinary decision. Generally, a Review on the Record is a "paper" review without witnesses being called to testify.

In 2013/2014, the Commissioner did not appoint any retired judges to conduct reviews on the record.

**"Reviewed & Closed" refers to Service or Policy allegations, Internal Discipline allegations, and/or Mandatory Investigations.*

The Police Complaint Commissioner may order a matter proceed to a Public Hearing if it is determined that, in addition to the above considerations:

- it is likely that evidence, other than that admissible in a Review on the Record, will be necessary to complete a review of the disciplinary decision on a standard of correctness; and
- a Public Hearing of the matter is necessary to preserve or restore public confidence in the investigation of misconduct or the administration of police discipline.

3. Public Hearing [s.143]

If the proposed discipline at a discipline proceeding is a reduction in rank or dismissal, the officer has an automatic right to either a Public Hearing or Review on the Record. Based on the circumstances of the matter, the Commissioner will determine the appropriate process. A retired judge is appointed as an adjudicator to preside over the hearing.

In 2013/2014, the Commissioner ordered six Public Hearings: three at the discretion of the Commissioner and three which were mandatory.

APPENDIX B: AUDITOR GENERAL'S SUMMARY REPORT

POLICE COMPLAINT AUDIT – SUMMARY REPORT

AUDITOR GENERAL COMMENTS

Effective oversight of, and accountability for, fair resolution of police complaints is critical to maintaining public confidence in the integrity of police services. In response to a request from the Special Committee to Inquire into the Use of Conducted Energy Weapons and to Audit Selected Police Complaints, my office undertook an audit to determine whether police complaints are being processed in compliance with the *Police Act* ("the Act").

My office concluded that police complaints are being processed in compliance with the Act. The complaints and investigations we audited were found to be well-documented and comprehensive – providing sufficient evidence that complaints are respectfully addressed and that all investigations are conducted in a thorough manner. We observed that none of the complaints we reviewed were treated as trivial.

I would like to express my thanks to the Police Complaint Commissioner ("the Commissioner") and his staff for the cooperation and assistance they provided to my staff during the conduct of this audit.

KEY FINDINGS

Police complaints are being addressed in compliance with the Act. The Commissioner promotes thorough and competent investigations of police complaints by exercising discretion as provided by the Act. The Office of the Police Complaint Commissioner (OPCC) has taken steps consistent with the Act to ensure increased public awareness of the police complaint process.

RECOMMENDATIONS

Recommendation 1: *We recommend the Office of the Police Complaint Commissioner work with police professional practices staff to identify and address the challenges associated with achieving the six-month time limit established for the completion of investigations as specified under the Police Act.*

Recommendation 2: *We recommend the Office of the Police Complaint Commissioner provide formal training to staff at police detachments on the receipt and handling of complaints.*

BACKGROUND

Request From the Special Committee

On May 31, 2012, the Legislative Assembly of British Columbia appointed a Special Committee to Inquire into the Use of Conducted Energy Weapons and to Audit Selected Police Complaints ("the Committee"). Included in the Committee's terms of reference is the following paragraph:

> "...pursuant to section 51.2 of the Act, the committee must, before January 1, 2013 conduct an audit respecting the outcome or resolution of randomly selected complaints and investigations under Part 11 of the Act and must submit a report to the Legislative Assembly respecting the results of the audit to the Legislative Assembly within one year after the date of the appointment of the Special Committee."

In accordance with section 13(2) of the *Auditor General Act*, the Auditor General of British Columbia was appointed by the Special Committee to conduct an audit to determine whether the outcome or resolution of randomly selected complaints and investigations concluded between April 1, 2010, and August 31, 2012, were, in all significant respects, completed in compliance with Part 11 of the *Police Act*.

AUDIT OBJECTIVES AND SCOPE

The objectives established for this audit were to answer the following three questions:

1. Are police complaints addressed in compliance with the Act?
2. Does the Police Complaint Commissioner promote thorough and competent investigations of police complaints by exercising discretion as provided by the Act?
3. Has the Police Complaint Commissioner taken steps consistent with the Act to ensure increased public awareness and to ensure complainants are treated fairly and receive proper assistance when making complaints?

The scope of the audit was focused on determining whether complaints are being processed, investigated and resolved in accordance with the requirements of the Act, and the extent to which the OPCC is providing discretionary oversight of the police complaint process prescribed in the Act. Excluded from the scope of the audit was providing an opinion about the validity of investigation decisions.

The Act specifies auditing a random sample of police complaints and investigations; however, based on the audit team's risk assessment, a purely random sample would likely not provide sufficient assurance regarding compliance with the Act. Therefore, a stratified random sample of complaints and investigations was selected to increase the relevance of our work.

SUMMARY REPORT

Audit Conclusion

The Auditor General has concluded that, overall, police complaints are being managed in compliance with the Act. The Commissioner promotes thorough and competent investigations of police complaints by exercising discretion as provided by the Act, and the OPCC has taken steps that are consistent with the Act to increase public awareness of the police complaint process.

KEY FINDINGS AND RECOMMENDATIONS

Are police complaints addressed in compliance with the Police Act?

We found that police complaints have been addressed in compliance with the Act. Most investigations were not completed within the six-month time frame specified in the Act, but were completed within time extensions granted by the Commissioner, as provided for in the Act. While we conclude there has been substantive compliance, the fact that less than half (45%) of the investigations in our sample were completed within the six-month time frame suggests that investigations are not being completed within the time frame generally intended by the Act.

***Recommendation 1**: We recommend the Office of the Police Complaint Commissioner work with police professional practices staff to identify and address the challenges associated with achieving the six-month time limit established for the completion of investigations as specified under the Police Act.*

Does the Police Complaint Commissioner promote thorough and competent investigations of police complaints by exercising discretion as provided by the Police Act?

We found that the Commissioner exercised discretionary authority as provided by the Act to direct departments to officially document complaints, including those that did not result in a formal complaint being registered. Evidence also shows that the Commissioner directed external investigations to be conducted when deemed in the public interest. We also found the Commissioner reviews Discipline Authority decisions and exercises independent power to appoint a new Discipline Authority if, in the opinion of the Commissioner, he is not convinced that the conclusion of an investigation is correct.

Has the Police Complaint Commission taken steps consistent with the Police Act to ensure increased public awareness and to ensure complainants are treated fairly and receive proper assistance in making complaints?

We found the OPCC has endeavoured to foster public awareness of the police complaints process and individual complainant rights under the Act. Guidelines have been developed for police detachments to follow when handling and processing complaints. Also, forms have been created by the OPCC for police detachments to use when handling and processing both registered and non-registered complaints. Finally, the OPCC has established a list of support groups that may be contacted to provide assistance with complaints.

At the present time, there is no formal monitoring or training provided to detachment staff to increase assurance that individuals wishing to make a complaint are not harassed, coerced, or intimidated when questioning or reporting police conduct or making a complaint. Although we found no evidence of any in-person complaint being received inappropriately, this is an area for potential improvement.

***Recommendation 2**: We recommend the Office of the Police Complaint Commissioner provide formal training to staff at police detachments on the receipt and handling of complaints.*

LOOKING AHEAD

In the conclusion to his 2007 review[1], Josiah Wood, QC, wrote, "there is still some distance to go before one-quarter of the population in British Columbia can be fully confident that all complaints against their municipal police officers will be thoroughly investigated and processed to a proper conclusion."

The scope of this audit, which was focused on compliance with legislation, was an appropriate check-in approximately two and a half years after Justice Wood's review recommendations were implemented in law. The audit found that there has been positive change and that compliance has been achieved. And, although the scope of the audit did not include providing an opinion on the appropriateness of decisions rendered as a result of investigations, we are able to provide overall assurance that complaints are properly processed and thoroughly investigated.

Looking ahead, it may be appropriate for a future special committee to consider whether a more comprehensive external examination is appropriate in order to determine if the outcomes intended by Justice Wood and legislators are being achieved.

1 "Report on the Review of the Police Complaint Process in British Columbia" by Josiah Wood, Q.C., February 2007.

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